

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE AUGUST 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1477

Introduced by Committee on Budget (Skinner (Chair), Bloom, Campos, Chesbro, Dababneh, Daly, Dickinson, Gordon, Jones-Sawyer, Mullin, Muratsuchi, Nazarian, Rodriguez, Stone, Ting, and Weber)

January 9, 2014

An act to add Chapter 7 (commencing with Section 155) to Title 1 of Part 1 of the Code of Civil Procedure, to add Section 757 to the Evidence Code, to amend Sections 1546.1, 1546.2, 1569.481, 1569.482, and 1569.682 of the Health and Safety Code, to amend Sections 11461.3, 11462.04, 11477, and 12300.4 of, and to add Chapter 5.6 (commencing with Section 13300) to Part 3 of Division 9 of, the Welfare and Institutions Code, and to amend Section 88 of Chapter 29 of the Statutes of 2014, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1477, as amended, Committee on Budget. Human services.

(1) Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens who have been granted special immigrant juvenile status to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations, state juvenile courts are charged with making a preliminary

determination of the child's dependency, as specified. Existing federal regulations define juvenile court to mean a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a minor to be a dependent or ward of the court. Existing law also establishes the jurisdiction of the probate court. Existing law regulates the establishment and termination of guardianships in probate court, and specifies that a guardian has the care, custody, and control of a ward. Existing law establishes the jurisdiction of the family court, which may make determinations about the custody of children.

This bill would provide that the superior court, including the juvenile, probate, or family court division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. The bill would require the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings. The bill would require records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. The bill would require the Judicial Council to adopt any rules and forms needed to implement these provisions.

(2) Existing federal law, Title VI of the federal Civil Rights Act of 1964 and the Safe Streets Act of 1968, prohibit national origin discrimination by recipients of federal assistance.

The California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing law requires that court interpreters' fees or other compensation be paid by the court in criminal cases, and by the litigants in civil cases, as specified. Existing law requires, in any action or proceeding under specified provisions of the Family Code relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney.

This bill would state that existing law and authority to provide interpreters in civil court includes providing an interpreter for a child

in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status.

(1)

(3) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities and residential care facilities for the elderly.

Existing law authorizes the department to appoint a temporary manager to assume the operation of a community care facility or residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist. To the extent department funds are used for the costs of the temporary manager or related expenses, existing law requires the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, requires that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility.

Existing law also authorizes the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject to extension by the department, when certain circumstances exist. To the extent that state funds are used to pay for the salary of the receiver or other related expenses, existing law requires the state be reimbursed from the revenues accruing to the facility or to the licensee or the entity related to the license, and to the extent that those revenues are insufficient, requires the unreimbursed amount constitute a lien on the assets of the facility or the proceeds from the sale of the facility.

This bill would instead provide that if the revenues are insufficient to reimburse the department for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof. The bill would make other related changes to these provisions. The bill would provide that liens placed against the personal and real property of a licensee for reimbursement of funds relating to the receivership be given judgment creditor priority.

(2)

(4) Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using

federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law specifies the amounts of cash aid to be paid each month to CalWORKs recipients. Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, a child is eligible for AFDC-FC if he or she is placed in the approved home of a relative and is otherwise eligible for federal financial participation in the AFDC-FC payment, as specified. Existing law, beginning January 1, 2015, establishes the Approved Relative Caregiver Funding Option Program in counties choosing to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

Existing law requires that the related child placed in the home meet certain requirements in order to be eligible under the Approved Relative Caregiver Funding Option Program and requires that specified funding be used for the program.

This bill would require, for purposes of this program, that the care and placement of the child be the responsibility of the county welfare department or the county probation department. The bill would also, for purposes of funding the program, delete the requirement that the funding of the applicable per-child CalWORKs grant be limited to the federal funds received.

(3)

(5) Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates. Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program, except for exemptions granted by the department on a case-by-case basis. Existing law also limits, for the 2012–13 and 2013–14 fiscal years, exceptions for any program with a rate classification level below 10 to exceptions associated with a program change.

This bill would extend that limitation to the 2014–15 fiscal year.

(4)

(6) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained. Existing law exempts from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.

This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, ~~the first \$50 amount established in~~ *specified provisions of law* of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

~~(5)~~

(7) Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law authorizes certain Medi-Cal recipients to receive waiver personal care services, as defined, in order to allow the recipients to remain in their own homes.

Existing law requires that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage.

This bill would, if certain conditions are met, deem a provider authorized to work a recipient's county-approved adjusted hours for

the week when a recipient's weekly authorized hours are adjusted and at the time of adjustment the recipient currently receives all authorized hours of services from one provider.

(8) Existing federal law, the Homeland Security Act of 2002, empowers the Director of the Office of Refugee Resettlement of the federal Department of Health and Human Services with functions under the immigration laws of the United States with respect to the care of unaccompanied alien children, as defined, including, but not limited to, coordinating and implementing the care and placement of unaccompanied alien children who are in federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each child, as provided. Existing law designates the State Department of Social Services as the single agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance.

This bill would require the State Department of Social Services, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state. The bill would require that the contracts awarded meet certain conditions.

~~(6)~~

(9) Existing law authorizes the State Department of Social Services to implement specified provisions of the Chapter 29 of the Statutes of 2014 through all-county letters or similar instructions and requires the department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

This bill would extend that authorization for all-county letters and similar instructions to additional provisions of Chapter 29 of the Statutes of 2014 that relate to the CalFresh program.

(10) This bill would provide that its provisions are severable.

(11) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(12) *This bill would incorporate additional changes to Section 1569.682 of the Health and Safety Code made by this bill and AB 1899, to take effect if both bills are chaptered and this bill is chaptered last.*

(7)

(13) Item 5180-151-0001 of Section 2.00 of the Budget Act of 2014 appropriated \$1,435,400,000 to the State Department of Social Services for local assistance for children and adult services, which includes, among other things, increased costs associated with cases of child abuse and neglect and revised federal requirements for child welfare case reviews, and funds for the Commercially Sexually Exploited Children Program. Item 5180-153-0001 of Section 2.00 of the Budget Act of 2014 also appropriated \$1,901,000 to the State Department of Social Services for local assistance for increased costs associated with revised county collection and reporting activities for cases of child abuse and neglect and revised federal requirements for child welfare case reviews.

This bill would revise these items by increasing the appropriation in Item 5180-151-0001 by \$1,686,000 for the Commercially Sexually Exploited Children Program, and by reducing the appropriation in Item 5180-153-0001 by \$1,686,000.

(8)

(14) This bill would provide that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing the bill.

(9)

(15) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 7 (commencing with Section 155) is*
2 *added to Title 1 of Part 1 of the Code of Civil Procedure, to read:*

3

4 *CHAPTER 7. SPECIAL IMMIGRANT JUVENILE FINDINGS*

5

6 155. (a) *A superior court has jurisdiction under California*
7 *law to make judicial determinations regarding the custody and*
8 *care of children within the meaning of the federal Immigration*
9 *and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R.*

1 *Sec. 204.11), which includes, but is not limited to, the juvenile,*
2 *probate, and family court divisions of the superior court. These*
3 *courts may make the findings necessary to enable a child to petition*
4 *the United States Citizenship and Immigration Service for*
5 *classification as a special immigrant juvenile pursuant to Section*
6 *1101 (a)(27)(J) of Title 8 of the United States Code.*

7 *(b) (1) If an order is requested from the superior court making*
8 *the necessary findings regarding special immigrant juvenile status*
9 *pursuant to Section 1101(a)(27)(J) of Title 8 of the United States*
10 *Code, and there is evidence to support those findings, which may*
11 *consist of, but is not limited to, a declaration by the child who is*
12 *the subject of the petition, the court shall issue the order, which*
13 *shall include all of the following findings:*

14 *(A) The child was either of the following:*

15 *(i) Declared a dependent of the court.*

16 *(ii) Legally committed to, or placed under the custody of, a state*
17 *agency or department, or an individual or entity appointed by the*
18 *court. The court shall indicate the date on which the dependency,*
19 *commitment, or custody was ordered.*

20 *(B) That reunification of the child with one or both of the child's*
21 *parents was determined not to be viable because of abuse, neglect,*
22 *abandonment, or a similar basis pursuant to California law. The*
23 *court shall indicate the date on which reunification was determined*
24 *not to be viable.*

25 *(C) That it is not in the best interest of the child to be returned*
26 *to the child's, or his or her parent's, previous country of nationality*
27 *or country of last habitual residence.*

28 *(2) If requested by a party, the court may make additional*
29 *findings that are supported by evidence.*

30 *(c) In any judicial proceedings in response to a request that the*
31 *superior court make the findings necessary to support a petition*
32 *for classification as a special immigrant juvenile, information*
33 *regarding the child's immigration status that is not otherwise*
34 *protected by state confidentiality laws shall remain confidential*
35 *and shall be available for inspection only by the court, the child*
36 *who is the subject of the proceeding, the parties, the attorneys for*
37 *the parties, the child's counsel, and the child's guardian.*

38 *(d) In any judicial proceedings in response to a request that the*
39 *superior court make the findings necessary to support a petition*
40 *for classification as a special immigrant juvenile, records of the*

1 *proceedings that are not otherwise protected by state*
2 *confidentiality laws may be sealed using the procedure set forth*
3 *in California Rules of Court 2.550 and 2.551.*

4 *(e) The Judicial Council shall adopt any rules and forms needed*
5 *to implement this section.*

6 *SEC. 2. Section 757 is added to the Evidence Code, to read:*

7 *757. Pursuant to this chapter, other applicable law, and*
8 *existing Judicial Council policy, including the policy adopted on*
9 *January 23, 2014, existing authority to provide interpreters in civil*
10 *court includes the authority to provide an interpreter in a*
11 *proceeding in which a petitioner requests an order from the*
12 *superior court to make the findings regarding special immigrant*
13 *juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the*
14 *United States Code.*

15 ~~SECTION 1.~~

16 *SEC. 3. Section 1546.1 of the Health and Safety Code, as added*
17 *by Section 11 of Chapter 29 of the Statutes of 2014, is amended*
18 *to read:*

19 *1546.1. (a) (1) It is the intent of the Legislature in enacting*
20 *this section to authorize the department to take quick, effective*
21 *action to protect the health and safety of clients of community care*
22 *facilities and to minimize the effects of transfer trauma that*
23 *accompany the abrupt transfer of clients by appointing a temporary*
24 *manager to assume the operation of a facility that is found to be*
25 *in a condition in which continued operation by the licensee or his*
26 *or her representative presents a substantial probability of imminent*
27 *danger of serious physical harm or death to the clients.*

28 *(2) A temporary manager appointed pursuant to this section*
29 *shall assume the operation of the facility in order to bring it into*
30 *compliance with the law, facilitate a transfer of ownership to a*
31 *new licensee, or ensure the orderly transfer of clients should the*
32 *facility be required to close. Upon a final decision and order of*
33 *revocation of the license or a forfeiture by operation of law, the*
34 *department shall immediately issue a provisional license to the*
35 *appointed temporary manager. Notwithstanding the applicable*
36 *sections of this code governing the revocation of a provisional*
37 *license, the provisional license issued to a temporary manager shall*
38 *automatically expire upon the termination of the temporary*
39 *manager. The temporary manager shall possess the provisional*
40 *license solely for purposes of carrying out the responsibilities*

1 authorized by this section and the duties set forth in the written
2 agreement between the department and the temporary manager.
3 The temporary manager shall have no right to appeal the expiration
4 of the provisional license.

5 (b) For purposes of this section, “temporary manager” means
6 the person, corporation, or other entity appointed temporarily by
7 the department as a substitute facility licensee or administrator
8 with authority to hire, terminate, reassign staff, obligate facility
9 funds, alter facility procedures, and manage the facility to correct
10 deficiencies identified in the facility’s operation. The temporary
11 manager shall have the final authority to direct the care and
12 supervision activities of any person associated with the facility,
13 including superseding the authority of the licensee and the
14 administrator.

15 (c) The director may appoint a temporary manager when it is
16 determined that it is necessary to temporarily suspend any license
17 of a community care facility pursuant to Section 1550.5 and any
18 of the following circumstances exist:

19 (1) The immediate relocation of the clients is not feasible based
20 on transfer trauma, lack of alternate placements, or other emergency
21 considerations for the health and safety of the clients.

22 (2) The licensee is unwilling or unable to comply with the
23 requirements of Section 1556 for the safe and orderly relocation
24 of clients when ordered to do so by the department.

25 (d) (1) Upon appointment, the temporary manager shall
26 complete its application for a license to operate a community care
27 facility and take all necessary steps and make best efforts to
28 eliminate any substantial threat to the health and safety to clients
29 or complete the transfer of clients to alternative placements
30 pursuant to Section 1556. For purposes of a provisional license
31 issued to a temporary manager, the licensee’s existing fire safety
32 clearance shall serve as the fire safety clearance for the temporary
33 manager’s provisional license.

34 (2) A person shall not impede the operation of a temporary
35 manager. The temporary manager’s access to, or possession of,
36 the property shall not be interfered with during the term of the
37 temporary manager appointment. There shall be an automatic stay
38 for a 60-day period subsequent to the appointment of a temporary
39 manager of any action that would interfere with the functioning
40 of the facility, including, but not limited to, termination of utility

1 services, attachments or set-offs of client trust funds, and
2 repossession of equipment in the facility.

3 (e) (1) The appointment of a temporary manager shall be
4 immediately effective and shall continue for a period not to exceed
5 60 days unless otherwise extended in accordance with paragraph
6 (2) of subdivision (h) at the discretion of the department or
7 otherwise terminated earlier by any of the following events:

8 (A) The temporary manager notifies the department, and the
9 department verifies, that the facility meets state and, if applicable,
10 federal standards for operation, and will be able to continue to
11 maintain compliance with those standards after the termination of
12 the appointment of the temporary manager.

13 (B) The department approves a new temporary manager.

14 (C) A new operator is licensed.

15 (D) The department closes the facility.

16 (E) A hearing or court order ends the temporary manager
17 appointment, including the appointment of a receiver under Section
18 1546.2.

19 (F) The appointment is terminated by the department or the
20 temporary manager.

21 (2) The appointment of a temporary manager shall authorize
22 the temporary manager to act pursuant to this section. The
23 appointment shall be made pursuant to a written agreement between
24 the temporary manager and the department that outlines the
25 circumstances under which the temporary manager may expend
26 funds. The department shall provide the licensee and administrator
27 with a copy of the accusation to appoint a temporary manager at
28 the time of appointment. The accusation shall notify the licensee
29 of the licensee's right to petition the Office of Administrative
30 Hearings for a hearing to contest the appointment of the temporary
31 manager as described in subdivision (f) and shall provide the
32 licensee with a form and appropriate information for the licensee's
33 use in requesting a hearing.

34 (3) The director may rescind the appointment of a temporary
35 manager and appoint a new temporary manager at any time that
36 the director determines the temporary manager is not adhering to
37 the conditions of the appointment.

38 (f) (1) The licensee of a community care facility may contest
39 the appointment of the temporary manager by filing a petition for
40 an order to terminate the appointment of the temporary manager

1 with the Office of Administrative Hearings within 15 days from
2 the date of mailing of the accusation to appoint a temporary
3 manager under subdivision (e). On the same day as the petition is
4 filed with the Office of Administrative Hearings, the licensee shall
5 serve a copy of the petition to the office of the director.

6 (2) Upon receipt of a petition under paragraph (1), the Office
7 of Administrative Hearings shall set a hearing date and time within
8 10 business days of the receipt of the petition. The office shall
9 promptly notify the licensee and the department of the date, time,
10 and place of the hearing. The office shall assign the case to an
11 administrative law judge. At the hearing, relevant evidence may
12 be presented pursuant to Section 11513 of the Government Code.
13 The administrative law judge shall issue a written decision on the
14 petition within 10 business days of the conclusion of the hearing.
15 The 10-day time period for holding the hearing and for rendering
16 a decision may be extended by the written agreement of the parties.

17 (3) The administrative law judge shall uphold the appointment
18 of the temporary manager if the department proves, by a
19 preponderance of the evidence, that the circumstances specified
20 in subdivision (c) applied to the facility at the time of the
21 appointment. The administrative law judge shall order the
22 termination of the temporary manager if the burden of proof is not
23 satisfied.

24 (4) The decision of the administrative law judge is subject to
25 judicial review as provided in Section 1094.5 of the Code of Civil
26 Procedure by the superior court of the county where the facility is
27 located. This review may be requested by the licensee of the facility
28 or the department by filing a petition seeking relief from the order.
29 The petition may also request the issuance of temporary injunctive
30 relief pending the decision on the petition. The superior court shall
31 hold a hearing within 10 business days of the filing of the petition
32 and shall issue a decision on the petition within 10 days of the
33 hearing. The department may be represented by legal counsel
34 within the department for purposes of court proceedings authorized
35 under this section.

36 (g) If the licensee of the community care facility does not protest
37 the appointment or does not prevail at either the administrative
38 hearing under paragraph (2) of subdivision (f) or the superior court
39 hearing under paragraph (4) of subdivision (f), the temporary
40 manager shall continue in accordance with subdivision (e).

1 (h) (1) If the licensee of the community care facility petitions
2 the Office of Administrative Hearings pursuant to subdivision (f),
3 the appointment of the temporary manager by the director pursuant
4 to this section shall continue until it is terminated by the
5 administrative law judge or by the superior court, or it shall
6 continue until the conditions of subdivision (e) are satisfied,
7 whichever is earlier.

8 (2) At any time during the appointment of the temporary
9 manager, the director may request an extension of the appointment
10 by filing a petition for hearing with the Office of Administrative
11 Hearings and serving a copy of the petition on the licensee. The
12 office shall proceed as specified in paragraph (2) of subdivision
13 (f). The administrative law judge may extend the appointment of
14 the temporary manager an additional 60 days upon a showing by
15 the department that the conditions specified in subdivision (c)
16 continue to exist.

17 (3) The licensee or the department may request review of the
18 administrative law judge's decision on the extension as provided
19 in paragraph (4) of subdivision (f).

20 (i) The temporary manager appointed pursuant to this section
21 shall meet the following qualifications:

22 (1) Be qualified to oversee correction of deficiencies on the
23 basis of experience and education.

24 (2) Not be the subject of any pending actions by the department
25 or any other state agency nor have ever been excluded from a
26 department licensed facility or had a license or certification
27 suspended or revoked by an administrative action by the
28 department or any other state agency.

29 (3) Have no financial ownership interest in the facility and have
30 no member of his or her immediate family who has a financial
31 ownership interest in the facility.

32 (4) Not currently serve, or within the past two years have served,
33 as a member of the staff of the facility.

34 (j) Payment of the costs of the temporary manager shall comply
35 with the following requirements:

36 (1) Upon agreement with the licensee, the costs of the temporary
37 manager and any other expenses in connection with the temporary
38 management shall be paid directly by the facility while the
39 temporary manager is assigned to that facility. Failure of the
40 licensee to agree to the payment of those costs may result in the

1 payment of the costs by the department and subsequent required
2 reimbursement of the department by the licensee pursuant to this
3 section.

4 (2) Direct costs of the temporary manager shall be equivalent
5 to the sum of the following:

6 (A) The prevailing fee paid by licensees for positions of the
7 same type in the facility's geographic area.

8 (B) Additional costs that reasonably would have been incurred
9 by the licensee if the licensee and the temporary manager had been
10 in an employment relationship.

11 (C) Any other reasonable costs incurred by the temporary
12 manager in furnishing services pursuant to this section.

13 (3) May exceed the amount specified in paragraph (2) if the
14 department is otherwise unable to attract a qualified temporary
15 manager.

16 (k) (1) The responsibilities of the temporary manager may
17 include, but are not limited to, the following:

18 (A) Paying wages to staff. The temporary manager shall have
19 the full power to hire, direct, manage, and discharge employees
20 of the facility, subject to any contractual rights they may have.
21 The temporary manager shall pay employees at the same rate of
22 compensation, including benefits, that the employees would have
23 received from the licensee or wages necessary to provide adequate
24 staff for the protection of clients and compliance with the law.

25 (B) Preserving client funds. The temporary manager shall be
26 entitled to, and shall take possession of, all property or assets of
27 clients that are in the possession of the licensee or administrator
28 of the facility. The temporary manager shall preserve all property,
29 assets, and records of clients of which the temporary manager takes
30 possession.

31 (C) Contracting for outside services as may be needed for the
32 operation of the facility. Any contract for outside services in excess
33 of five thousand dollars (\$5,000) shall be approved by the director.

34 (D) Paying commercial creditors of the facility to the extent
35 required to operate the facility. The temporary manager shall honor
36 all leases, mortgages, and secured transactions affecting the
37 building in which the facility is located and all goods and fixtures
38 in the building, but only to the extent of payments that, in the case
39 of a rental agreement, are for the use of the property during the
40 period of the temporary management, or that, in the case of a

1 purchase agreement, come due during the period of the temporary
2 management.

3 (E) Doing all things necessary and proper to maintain and
4 operate the facility in accordance with sound fiscal policies. The
5 temporary manager shall take action as is reasonably necessary to
6 protect or conserve the assets or property of which the temporary
7 manager takes possession and may use those assets or property
8 only in the performance of the powers and duties set out in this
9 section.

10 (2) Expenditures by the temporary manager in excess of five
11 thousand dollars (\$5,000) shall be approved by the director. Total
12 encumbrances and expenditures by the temporary manager for the
13 duration of the temporary management shall not exceed the sum
14 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
15 unless approved by the director in writing.

16 (3) The temporary manager shall make no capital improvements
17 to the facility in excess of five thousand dollars (\$5,000) without
18 the approval of the director.

19 (l) (1) To the extent department funds are advanced for the
20 costs of the temporary manager or for other expenses in connection
21 with the temporary management, the department shall be
22 reimbursed from the revenues accruing to the facility or to the
23 licensee or an entity related to the licensee. Any reimbursement
24 received by the department shall be redeposited in the account
25 from which the department funds were advanced. If the revenues
26 are insufficient to reimburse the department, the unreimbursed
27 amount shall constitute grounds for a monetary judgment in civil
28 court and a subsequent lien upon the assets of the facility or the
29 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
30 with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code
31 of Civil Procedure, a lien against the personal assets of the facility
32 or an entity related to the licensee based on the monetary judgment
33 obtained shall be filed with the Secretary of State on the forms
34 required for a notice of judgment lien. A lien against the real
35 property of the facility or an entity related to the licensee based
36 on the monetary judgment obtained shall be recorded with the
37 county recorder of the county where the facility of the licensee is
38 located or where the real property of the entity related to the
39 licensee is located. The lien shall not attach to the interests of a
40 lessor, unless the lessor is operating the facility. The authority to

1 place a lien against the personal and real property of the licensee
2 for the reimbursement of any state funds expended pursuant to this
3 section shall be given judgment creditor priority.

4 (2) For purposes of this section, “entity related to the licensee”
5 means an entity, other than a natural person, of which the licensee
6 is a subsidiary or an entity in which a person who was obligated
7 to disclose information under Section 1520 possesses an interest
8 that would also require disclosure pursuant to Section 1520.

9 (m) Appointment of a temporary manager under this section
10 does not relieve the licensee of any responsibility for the care and
11 supervision of clients under this chapter. The licensee, even if the
12 license is deemed surrendered or the facility abandoned, shall be
13 required to reimburse the department for all costs associated with
14 operation of the facility during the period the temporary manager
15 is in place that are not accounted for by using facility revenues or
16 for the relocation of clients handled by the department if the
17 licensee fails to comply with the relocation requirements of Section
18 1556 when required by the department to do so. If the licensee
19 fails to reimburse the department under this section, then the
20 department, along with using its own remedies available under
21 this chapter, may request that the Attorney General’s office, the
22 city attorney’s office, or the local district attorney’s office seek
23 any available criminal, civil, or administrative remedy, including,
24 but not limited to, injunctive relief, restitution, and damages in the
25 same manner as provided for in Chapter 5 (commencing with
26 Section 17200) of Part 2 of Division 7 of the Business and
27 Professions Code.

28 (n) The department may use funds from the emergency client
29 contingency account pursuant to Section 1546 when needed to
30 supplement the operation of the facility or the transfer of clients
31 under the control of the temporary manager appointed under this
32 section if facility revenues are unavailable or exhausted when
33 needed. Pursuant to subdivision (l), the licensee shall be required
34 to reimburse the department for any funds used from the emergency
35 client contingency account during the period of control of the
36 temporary manager and any incurred costs of collection.

37 (o) This section does not apply to a residential facility that serves
38 six or fewer persons and is also the principal residence of the
39 licensee.

1 (p) Notwithstanding any other provision of law, the temporary
2 manager shall be liable only for damages resulting from gross
3 negligence in the operation of the facility or intentional tortious
4 acts.

5 (q) All governmental immunities otherwise applicable to the
6 state shall also apply to the state in the use of a temporary manager
7 in the operation of a facility pursuant to this section.

8 (r) A licensee shall not be liable for any occurrences during the
9 temporary management under this section except to the extent that
10 the occurrences are the result of the licensee's conduct.

11 (s) The department may adopt regulations for the administration
12 of this section.

13 ~~SEC. 2.~~

14 *SEC. 4.* Section 1546.2 of the Health and Safety Code, as added
15 by Section 12 of Chapter 29 of the Statutes of 2014, is amended
16 to read:

17 1546.2. (a) It is the intent of the Legislature in enacting this
18 section to authorize the department to take quick, effective action
19 to protect the health and safety of residents of community care
20 facilities and to minimize the effects of transfer trauma that
21 accompany the abrupt transfer of clients through a system whereby
22 the department may apply for a court order appointing a receiver
23 to temporarily operate a community care facility. The receivership
24 is not intended to punish a licensee or to replace attempts to secure
25 cooperative action to protect the clients' health and safety. The
26 receivership is intended to protect the clients in the absence of
27 other reasonably available alternatives. The receiver shall assume
28 the operation of the facility in order to bring it into compliance
29 with law, facilitate a transfer of ownership to a new licensee, or
30 ensure the orderly transfer of clients should the facility be required
31 to close.

32 (b) (1) Whenever circumstances exist indicating that continued
33 management of a community care facility by the current licensee
34 would present a substantial probability or imminent danger of
35 serious physical harm or death to the clients, or the facility is
36 closing or intends to terminate operation as a community care
37 facility and adequate arrangements for relocation of clients have
38 not been made at least 30 days prior to the closing or termination,
39 the director may petition the superior court for the county in which
40 the community care facility is located for an order appointing a

1 receiver to temporarily operate the community care facility in
2 accordance with this section.

3 (2) The petition shall allege the facts upon which the action is
4 based and shall be supported by an affidavit of the director. A copy
5 of the petition and affidavits, together with an order to appear and
6 show cause why temporary authority to operate the community
7 care facility should not be vested in a receiver pursuant to this
8 section, shall be delivered to the licensee, administrator, or a
9 responsible person at the facility to the attention of the licensee
10 and administrator. The order shall specify a hearing date, which
11 shall be not less than 10, nor more than 15, days following delivery
12 of the petition and order upon the licensee, except that the court
13 may shorten or lengthen the time upon a showing of just cause.

14 (c) (1) If the director files a petition pursuant to subdivision (b)
15 for appointment of a receiver to operate a community care facility,
16 in accordance with Section 564 of the Code of Civil Procedure,
17 the director may also petition the court, in accordance with Section
18 527 of the Code of Civil Procedure, for an order appointing a
19 temporary receiver. A temporary receiver appointed by the court
20 pursuant to this subdivision shall serve until the court has made a
21 final determination on the petition for appointment of a receiver
22 filed pursuant to subdivision (b). A receiver appointed pursuant
23 to this subdivision shall have the same powers and duties as a
24 receiver would have if appointed pursuant to subdivision (b). Upon
25 the director filing a petition for a receiver, the receiver shall
26 complete its application for a provisional license to operate a
27 community care facility. For purposes of a provisional license
28 issued to a receiver, the licensee's existing fire safety clearance
29 shall serve as the fire safety clearance for the receiver's provisional
30 license.

31 (2) At the time of the hearing, the department shall advise the
32 licensee of the name of the proposed receiver. The receiver shall
33 be a certified community care facility administrator or other
34 responsible person or entity, as determined by the court, from a
35 list of qualified receivers established by the department, and, if
36 need be, with input from providers of residential care and consumer
37 representatives. Persons appearing on the list shall have experience
38 in the delivery of care services to clients of community care
39 facilities, and, if feasible, shall have experience with the operation
40 of a community care facility, shall not be the subject of any pending

1 actions by the department or any other state agency, and shall not
2 have ever been excluded from a department licensed facility nor
3 have had a license or certification suspended or revoked by an
4 administrative action by the department or any other state agency.
5 The receivers shall have sufficient background and experience in
6 management and finances to ensure compliance with orders issued
7 by the court. The owner, licensee, or administrator shall not be
8 appointed as the receiver unless authorized by the court.

9 (3) If at the conclusion of the hearing, which may include oral
10 testimony and cross-examination at the option of any party, the
11 court determines that adequate grounds exist for the appointment
12 of a receiver and that there is no other reasonably available remedy
13 to protect the clients, the court may issue an order appointing a
14 receiver to temporarily operate the community care facility and
15 enjoining the licensee from interfering with the receiver in the
16 conduct of his or her duties. In these proceedings, the court shall
17 make written findings of fact and conclusions of law and shall
18 require an appropriate bond to be filed by the receiver and paid
19 for by the licensee. The bond shall be in an amount necessary to
20 protect the licensee in the event of any failure on the part of the
21 receiver to act in a reasonable manner. The bond requirement may
22 be waived by the licensee.

23 (4) The court may permit the licensee to participate in the
24 continued operation of the facility during the pendency of any
25 receivership ordered pursuant to this section and shall issue an
26 order detailing the nature and scope of participation.

27 (5) Failure of the licensee to appear at the hearing on the petition
28 shall constitute an admission of all factual allegations contained
29 in the petition for purposes of these proceedings only.

30 (6) The licensee shall receive notice and a copy of the
31 application each time the receiver applies to the court or the
32 department for instructions regarding his or her duties under this
33 section, when an accounting pursuant to subdivision (i) is
34 submitted, and when any other report otherwise required under
35 this section is submitted. The licensee shall have an opportunity
36 to present objections or otherwise participate in those proceedings.

37 (d) A person shall not impede the operation of a receivership
38 created under this section. The receiver's access to, or possession
39 of, the property shall not be interfered with during the term of the
40 receivership. There shall be an automatic stay for a 60-day period

1 subsequent to the appointment of a receiver of any action that
2 would interfere with the functioning of the facility, including, but
3 not limited to, cancellation of insurance policies executed by the
4 licensees, termination of utility services, attachments or setoffs of
5 client trust funds and working capital accounts, and repossession
6 of equipment in the facility.

7 (e) When a receiver is appointed, the licensee may, at the
8 discretion of the court, be divested of possession and control of
9 the facility in favor of the receiver. If the court divests the licensee
10 of possession and control of the facility in favor of the receiver,
11 the department shall immediately issue a provisional license to the
12 receiver. Notwithstanding the applicable sections of this code
13 governing the revocation of a provisional license, the provisional
14 license issued to a receiver shall automatically expire upon the
15 termination of the receivership. The receiver shall possess the
16 provisional license solely for purposes of carrying out the
17 responsibilities authorized by this section and the duties ordered
18 by the court. The receiver shall have no right to appeal the
19 expiration of the provisional license.

20 (f) A receiver appointed pursuant to this section:

21 (1) May exercise those powers and shall perform those duties
22 ordered by the court, in addition to other duties provided by statute.

23 (2) Shall operate the facility in a manner that ensures the safety
24 and adequate care for the clients.

25 (3) Shall have the same rights to possession of the building in
26 which the facility is located, and of all goods and fixtures in the
27 building at the time the petition for receivership is filed, as the
28 licensee and administrator would have had if the receiver had not
29 been appointed.

30 (4) May use the funds, building, fixtures, furnishings, and any
31 accompanying consumable goods in the provision of care and
32 services to clients and to any other persons receiving services from
33 the facility at the time the petition for receivership was filed.

34 (5) Shall take title to all revenue coming to the facility in the
35 name of the receiver who shall use it for the following purposes
36 in descending order of priority:

37 (A) To pay wages to staff. The receiver shall have full power
38 to hire, direct, manage, and discharge employees of the facility,
39 subject to any contractual rights they may have. The receiver shall
40 pay employees at the same rate of compensation, including

1 benefits, that the employees would have received from the licensee
2 or wages necessary to provide adequate staff for the protection of
3 the clients and compliance with the law.

4 (B) To preserve client funds. The receiver shall be entitled to,
5 and shall take, possession of all property or assets of clients that
6 are in the possession of the licensee or operator of the facility. The
7 receiver shall preserve all property, assets, and records of clients
8 of which the receiver takes possession.

9 (C) To contract for outside services as may be needed for the
10 operation of the community care facility. Any contract for outside
11 services in excess of five thousand dollars (\$5,000) shall be
12 approved by the court.

13 (D) To pay commercial creditors of the facility to the extent
14 required to operate the facility. Except as provided in subdivision
15 (h), the receiver shall honor all leases, mortgages, and secured
16 transactions affecting the building in which the facility is located
17 and all goods and fixtures in the building of which the receiver
18 has taken possession, but only to the extent of payments which,
19 in the case of a rental agreement, are for the use of the property
20 during the period of receivership, or which, in the case of a
21 purchase agreement, come due during the period of receivership.

22 (E) To receive a salary, as approved by the court.

23 (F) To do all things necessary and proper to maintain and operate
24 the facility in accordance with sound fiscal policies. The receiver
25 shall take action as is reasonably necessary to protect or conserve
26 the assets or property of which the receiver takes possession and
27 may use those assets or property only in the performance of the
28 powers and duties set out in this section and by order of the court.

29 (G) To ask the court for direction in the treatment of debts
30 incurred prior to the appointment, if the licensee's debts appear
31 extraordinary, of questionable validity, or unrelated to the normal
32 and expected maintenance and operation of the facility, or if
33 payment of the debts will interfere with the purposes of
34 receivership.

35 (g) (1) A person who is served with notice of an order of the
36 court appointing a receiver and of the receiver's name and address
37 shall be liable to pay the receiver, rather than the licensee, for any
38 goods or services provided by the community care facility after
39 the date of the order. The receiver shall give a receipt for each
40 payment and shall keep a copy of each receipt on file. The receiver

1 shall deposit amounts received in a special account and shall use
2 this account for all disbursements. Payment to the receiver pursuant
3 to this subdivision shall discharge the obligation to the extent of
4 the payment and shall not thereafter be the basis of a claim by the
5 licensee or any other person. A client shall not be evicted nor may
6 any contract or rights be forfeited or impaired, nor may any
7 forfeiture be effected or liability increased, by reason of an
8 omission to pay the licensee, operator, or other person a sum paid
9 to the receiver pursuant to this subdivision.

10 (2) This section shall not be construed to suspend, during the
11 temporary management by the receiver, any obligation of the
12 licensee for payment of local, state, or federal taxes. A licensee
13 shall not be held liable for acts or omissions of the receiver during
14 the term of the temporary management.

15 (3) Upon petition of the receiver, the court may order immediate
16 payment to the receiver for past services that have been rendered
17 and billed, and the court may also order a sum not to exceed one
18 month's advance payment to the receiver of any sums that may
19 become payable under the Medi-Cal program.

20 (h) (1) A receiver shall not be required to honor a lease,
21 mortgage, or secured transaction entered into by the licensee of
22 the facility and another party if the court finds that the agreement
23 between the parties was entered into for a collusive, fraudulent
24 purpose or that the agreement is unrelated to the operation of the
25 facility.

26 (2) A lease, mortgage, or secured transaction or an agreement
27 unrelated to the operation of the facility that the receiver is
28 permitted to dishonor pursuant to this subdivision shall only be
29 subject to nonpayment by the receiver for the duration of the
30 receivership, and the dishonoring of the lease, mortgage, security
31 interest, or other agreement, to this extent, by the receiver shall
32 not relieve the owner or operator of the facility from any liability
33 for the full amount due under the lease, mortgage, security interest,
34 or other agreement.

35 (3) If the receiver is in possession of real estate or goods subject
36 to a lease, mortgage, or security interest that the receiver is
37 permitted to avoid pursuant to paragraph (1), and if the real estate
38 or goods are necessary for the continued operation of the facility,
39 the receiver may apply to the court to set a reasonable rent, price,
40 or rate of interest to be paid by the receiver during the duration of

1 the receivership. The court shall hold a hearing on this application
2 within 15 days. The receiver shall send notice of the application
3 to any known owner of the property involved at least 10 days prior
4 to the hearing.

5 (4) Payment by the receiver of the amount determined by the
6 court to be reasonable is a defense to any action against the receiver
7 for payment or possession of the goods or real estate, subject to
8 the lease or mortgage, which is brought by any person who received
9 the notice required by this subdivision. However, payment by the
10 receiver of the amount determined by the court to be reasonable
11 shall not relieve the owner or operator of the facility from any
12 liability for the difference between the amount paid by the receiver
13 and the amount due under the original lease, mortgage, or security
14 interest.

15 (i) A monthly accounting shall be made by the receiver to the
16 department of all moneys received and expended by the receiver
17 on or before the 15th day of the following month or as ordered by
18 the court, and the remainder of income over expenses for that
19 month shall be returned to the licensee. A copy of the accounting
20 shall be provided to the licensee. The licensee or owner of the
21 community care facility may petition the court for a determination
22 as to the reasonableness of any expenditure made pursuant to
23 paragraph (5) of subdivision (f).

24 (j) (1) The receiver shall be appointed for an initial period of
25 not more than three months. The initial three-month period may
26 be extended for additional periods not exceeding three months, as
27 determined by the court pursuant to this section. At the end of one
28 month, the receiver shall report to the court on its assessment of
29 the probability that the community care facility will meet state
30 standards for operation by the end of the initial three-month period
31 and will continue to maintain compliance with those standards
32 after termination of the receiver's management. If it appears that
33 the facility cannot be brought into compliance with state standards
34 within the initial three-month period, the court shall take
35 appropriate action as follows:

36 (A) Extend the receiver's management for an additional three
37 months if there is a substantial likelihood that the facility will meet
38 state standards within that period and will maintain compliance
39 with the standards after termination of the receiver's management.
40 The receiver shall report to the court in writing upon the facility's

1 progress at the end of six weeks of any extension ordered pursuant
2 to this paragraph.

3 (B) Order the director to revoke or temporarily suspend, or both,
4 the license pursuant to Article 5 (commencing with Section 1550)
5 and extend the receiver's management for the period necessary to
6 transfer clients in accordance with the transfer plan, but for not
7 more than three months from the date of initial appointment of a
8 receiver, or 14 days, whichever is greater. An extension of an
9 additional three months may be granted if deemed necessary by
10 the court.

11 (2) If it appears at the end of six weeks of an extension ordered
12 pursuant to subparagraph (A) of paragraph (1) that the facility
13 cannot be brought into compliance with state standards for
14 operation or that it will not maintain compliance with those
15 standards after the receiver's management is terminated, the court
16 shall take appropriate action as specified in subparagraph (B) of
17 paragraph (1).

18 (3) In evaluating the probability that a community care facility
19 will maintain compliance with state standards of operation after
20 the termination of receiver management ordered by the court, the
21 court shall consider at least the following factors:

22 (A) The duration, frequency, and severity of past violations in
23 the facility.

24 (B) History of compliance in other care facilities operated by
25 the proposed licensee.

26 (C) Efforts by the licensee to prevent and correct past violations.

27 (D) The financial ability of the licensee to operate in compliance
28 with state standards.

29 (E) The recommendations and reports of the receiver.

30 (4) Management of a community care facility operated by a
31 receiver pursuant to this section shall not be returned to the
32 licensee, to any person related to the licensee, or to any person
33 who served as a member of the facility's staff or who was
34 employed by the licensee prior to the appointment of the receiver
35 unless both of the following conditions are met:

36 (A) The department believes that it would be in the best interests
37 of the clients of the facility, requests that the court return the
38 operation of the facility to the former licensee, and provides clear
39 and convincing evidence to the court that it is in the best interests
40 of the facility's clients to take that action.

1 (B) The court finds that the licensee has fully cooperated with
2 the department in the appointment and ongoing activities of a
3 receiver appointed pursuant to this section, and, if applicable, any
4 temporary manager appointed pursuant to Section 1546.1.

5 (5) The owner of the facility may at any time sell, lease, or close
6 the facility, subject to the following provisions:

7 (A) If the owner closes the facility, or the sale or lease results
8 in the closure of the facility, the court shall determine if a transfer
9 plan is necessary. If the court so determines, the court shall adopt
10 and implement a transfer plan consistent with the provisions of
11 Section 1556.

12 (B) If the licensee proposes to sell or lease the facility and the
13 facility will continue to operate as a community care facility, the
14 court and the department shall reevaluate any proposed transfer
15 plan. If the court and the department determine that the sale or
16 lease of the facility will result in compliance with licensing
17 standards, the transfer plan and the receivership shall, subject to
18 those conditions that the court may impose and enforce, be
19 terminated upon the effective date of the sale or lease.

20 (k) (1) The salary of the receiver shall be set by the court
21 commensurate with community care facility industry standards,
22 giving due consideration to the difficulty of the duties undertaken,
23 and shall be paid from the revenue coming to the facility. If the
24 revenue is insufficient to pay the salary in addition to other
25 expenses of operating the facility, the receiver's salary shall be
26 paid from the emergency client contingency account as provided
27 in Section 1546. State advances of funds in excess of five thousand
28 dollars (\$5,000) shall be approved by the director. Total advances
29 for encumbrances and expenditures shall not exceed the sum of
30 forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
31 unless approved by the director in writing.

32 (2) To the extent state funds are advanced for the salary of the
33 receiver or for other expenses in connection with the receivership,
34 as limited by subdivision (g), the state shall be reimbursed from
35 the revenues accruing to the facility or to the licensee or an entity
36 related to the licensee. Any reimbursement received by the state
37 shall be redeposited in the account from which the state funds were
38 advanced. If the revenues are insufficient to reimburse the state,
39 the unreimbursed amount shall constitute grounds for a monetary
40 judgment in civil court and a subsequent lien upon the assets of

1 the facility or the proceeds from the sale thereof. Pursuant to
2 Chapter 2 (commencing with Section 697.510) of Division 2 of
3 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
4 personal assets of the facility or an entity related to the licensee
5 based on the monetary judgment obtained shall be filed with the
6 Secretary of State on the forms required for a notice of judgment
7 lien. A lien against the real property of the facility or an entity
8 related to the licensee based on the monetary judgment obtained
9 shall be recorded with the county recorder of the county where the
10 facility of the licensee is located or where the real property of the
11 entity related to the licensee is located. The lien shall not attach
12 to the interests of a lessor, unless the lessor is operating the facility.
13 The authority to place a lien against the personal and real property
14 of the licensee for the reimbursement of any state funds expended
15 pursuant to this section shall be given judgment creditor priority.

16 (3) For purposes of this subdivision, "entity related to the
17 licensee" means an entity, other than a natural person, of which
18 the licensee is a subsidiary or an entity in which any person who
19 was obligated to disclose information under Section 1520 possesses
20 an interest that would also require disclosure pursuant to Section
21 1520.

22 (l) (1) This section does not impair the right of the owner of a
23 community care facility to dispose of his or her property interests
24 in the facility, but any facility operated by a receiver pursuant to
25 this section shall remain subject to that administration until
26 terminated by the court. The termination shall be promptly
27 effectuated, provided that the interests of the clients have been
28 safeguarded as determined by the court.

29 (2) This section does not limit the power of the court to appoint
30 a receiver under any other applicable provision of law or to order
31 any other remedy available under law.

32 (m) (1) Notwithstanding any other provision of law, the receiver
33 shall be liable only for damages resulting from gross negligence
34 in the operation of the facility or intentional tortious acts.

35 (2) All governmental immunities otherwise applicable to the
36 State of California shall also apply in the use of a receiver in the
37 operation of a facility pursuant to this section.

38 (3) The licensee shall not be liable for any occurrences during
39 the receivership except to the extent that the occurrences are the
40 result of the licensee's conduct.

1 (n) The department may adopt regulations for the administration
2 of this section. This section does not impair the authority of the
3 department to temporarily suspend licenses under Section 1550.5
4 or to reach a voluntary agreement with the licensee for alternate
5 management of a community care facility including the use of a
6 temporary manager under Section 1546.1. This section does not
7 authorize the department to interfere in a labor dispute.

8 (o) This section does not apply to a residential facility that serves
9 six or fewer persons and is also the principal residence of the
10 licensee.

11 (p) This section does not apply to a licensee that has obtained
12 a certificate of authority to offer continuing care contracts, as
13 defined in paragraph (8) of subdivision (c) of Section 1771.

14 ~~SEC. 3.~~

15 *SEC. 5.* Section 1569.481 of the Health and Safety Code, as
16 added by Section 24 of Chapter 29 of the Statutes of 2014, is
17 amended to read:

18 1569.481. (a) (1) It is the intent of the Legislature in enacting
19 this section to authorize the department to take quick, effective
20 action to protect the health and safety of residents of residential
21 care facilities for the elderly and to minimize the effects of transfer
22 trauma that accompany the abrupt transfer of residents by
23 appointing a temporary manager to assume the operation of a
24 facility that is found to be in a condition in which continued
25 operation by the licensee or his or her representative presents a
26 substantial probability of imminent danger of serious physical
27 harm or death to the residents.

28 (2) A temporary manager appointed pursuant to this section
29 shall assume the operation of the facility in order to bring it into
30 compliance with the law, facilitate a transfer of ownership to a
31 new licensee, or ensure the orderly transfer of residents should the
32 facility be required to close. Upon a final decision and order of
33 revocation of the license, issuance of a temporary suspension, or
34 a forfeiture by operation of law, the department shall immediately
35 issue a provisional license to the appointed temporary manager.
36 Notwithstanding the applicable sections of this code governing
37 the revocation of a provisional license, the provisional license
38 issued to a temporary manager shall automatically expire upon the
39 termination of the temporary manager. The temporary manager
40 shall possess the provisional license solely for purposes of carrying

1 out the responsibilities authorized by this section and the duties
2 set forth in the written agreement between the department and the
3 temporary manager. The temporary manager shall have no right
4 to appeal the expiration of the provisional license.

5 (b) For purposes of this section, “temporary manager” means
6 the person, corporation, or other entity appointed temporarily by
7 the department as a substitute facility licensee or administrator
8 with authority to hire, terminate, reassign staff, obligate facility
9 funds, alter facility procedures, and manage the facility to correct
10 deficiencies identified in the facility’s operation. The temporary
11 manager shall have the final authority to direct the care and
12 supervision activities of any person associated with the facility,
13 including superseding the authority of the licensee and the
14 administrator.

15 (c) The director, in order to protect the residents of the facility
16 from physical or mental abuse, abandonment, or any other
17 substantial threat to health or safety, may appoint a temporary
18 manager when any of the following circumstances exist:

19 (1) The director determines that it is necessary to temporarily
20 suspend the license of a residential care facility for the elderly
21 pursuant to Section 1569.50 and the immediate relocation of the
22 residents is not feasible based on transfer trauma, lack of available
23 alternative placements, or other emergency considerations for the
24 health and safety of the residents.

25 (2) The licensee is unwilling or unable to comply with the
26 requirements of Section 1569.525 or the requirements of Section
27 1569.682 regarding the safe and orderly relocation of residents
28 when ordered to do so by the department or when otherwise
29 required by law.

30 (3) The licensee has opted to secure a temporary manager
31 pursuant to Section 1569.525.

32 (d) (1) Upon appointment, the temporary manager shall
33 complete its application for a license to operate a residential care
34 facility for the elderly and take all necessary steps and make best
35 efforts to eliminate any substantial threat to the health and safety
36 to residents or complete the transfer of residents to alternative
37 placements pursuant to Section 1569.525 or 1569.682. For purposes
38 of a provisional license issued to a temporary manager, the
39 licensee’s existing fire safety clearance shall serve as the fire safety
40 clearance for the temporary manager’s provisional license.

1 (2) A person shall not impede the operation of a temporary
2 manager. The temporary manager's access to, or possession of,
3 the property shall not be interfered with during the term of the
4 temporary manager appointment. There shall be an automatic stay
5 for a 60-day period subsequent to the appointment of a temporary
6 manager of any action that would interfere with the functioning
7 of the facility, including, but not limited to, termination of utility
8 services, attachments, or setoffs of resident trust funds, and
9 repossession of equipment in the facility.

10 (e) (1) The appointment of a temporary manager shall be
11 immediately effective and shall continue for a period not to exceed
12 60 days unless otherwise extended in accordance with paragraph
13 (2) of subdivision (h) at the discretion of the department or as
14 permitted by paragraph (2) of subdivision (d) of Section 1569.525,
15 or unless otherwise terminated earlier by any of the following
16 events:

17 (A) The temporary manager notifies the department, and the
18 department verifies, that the facility meets state and, if applicable,
19 federal standards for operation, and will be able to continue to
20 maintain compliance with those standards after the termination of
21 the appointment of the temporary manager.

22 (B) The department approves a new temporary manager.

23 (C) A new operator is licensed.

24 (D) The department closes the facility.

25 (E) A hearing or court order ends the temporary manager
26 appointment, including the appointment of a receiver under Section
27 1569.482.

28 (F) The appointment is terminated by the department or the
29 temporary manager.

30 (2) The appointment of a temporary manager shall authorize
31 the temporary manager to act pursuant to this section. The
32 appointment shall be made pursuant to a written agreement between
33 the temporary manager and the department that outlines the
34 circumstances under which the temporary manager may expend
35 funds. The department shall provide the licensee and administrator
36 with a copy of the accusation to appoint a temporary manager at
37 the time of appointment. The accusation shall notify the licensee
38 of the licensee's right to petition the Office of Administrative
39 Hearings for a hearing to contest the appointment of the temporary
40 manager as described in subdivision (f) and shall provide the

1 licensee with a form and appropriate information for the licensee's
2 use in requesting a hearing.

3 (3) The director may rescind the appointment of a temporary
4 manager and appoint a new temporary manager at any time that
5 the director determines the temporary manager is not adhering to
6 the conditions of the appointment.

7 (f) (1) The licensee of a residential care facility for the elderly
8 may contest the appointment of the temporary manager by filing
9 a petition for an order to terminate the appointment of the
10 temporary manager with the Office of Administrative Hearings
11 within 15 days from the date of mailing of the accusation to appoint
12 a temporary manager under subdivision (e). On the same day as
13 the petition is filed with the Office of Administrative Hearings,
14 the licensee shall serve a copy of the petition to the office of the
15 director.

16 (2) Upon receipt of a petition under paragraph (1), the Office
17 of Administrative Hearings shall set a hearing date and time within
18 10 business days of the receipt of the petition. The office shall
19 promptly notify the licensee and the department of the date, time,
20 and place of the hearing. The office shall assign the case to an
21 administrative law judge. At the hearing, relevant evidence may
22 be presented pursuant to Section 11513 of the Government Code.
23 The administrative law judge shall issue a written decision on the
24 petition within 10 business days of the conclusion of the hearing.
25 The 10-day time period for holding the hearing and for rendering
26 a decision may be extended by the written agreement of the parties.

27 (3) The administrative law judge shall uphold the appointment
28 of the temporary manager if the department proves, by a
29 preponderance of the evidence, that the circumstances specified
30 in subdivision (c) applied to the facility at the time of the
31 appointment. The administrative law judge shall order the
32 termination of the temporary manager if the burden of proof is not
33 satisfied.

34 (4) The decision of the administrative law judge is subject to
35 judicial review as provided in Section 1094.5 of the Code of Civil
36 Procedure by the superior court of the county where the facility is
37 located. This review may be requested by the licensee of the facility
38 or the department by filing a petition seeking relief from the order.
39 The petition may also request the issuance of temporary injunctive
40 relief pending the decision on the petition. The superior court shall

1 hold a hearing within 10 business days of the filing of the petition
2 and shall issue a decision on the petition within 10 days of the
3 hearing. The department may be represented by legal counsel
4 within the department for purposes of court proceedings authorized
5 under this section.

6 (g) If the licensee does not protest the appointment or does not
7 prevail at either the administrative hearing under paragraph (2) of
8 subdivision (f) or the superior court hearing under paragraph (4)
9 of subdivision (f), the temporary manager shall continue in
10 accordance with subdivision (e).

11 (h) (1) If the licensee petitions the Office of Administrative
12 Hearings pursuant to subdivision (f), the appointment of the
13 temporary manager by the director pursuant to this section shall
14 continue until it is terminated by the administrative law judge or
15 by the superior court, or it shall continue until the conditions of
16 subdivision (e) are satisfied, whichever is earlier.

17 (2) At any time during the appointment of the temporary
18 manager, the director may request an extension of the appointment
19 by filing a petition for hearing with the Office of Administrative
20 Hearings and serving a copy of the petition on the licensee. The
21 office shall proceed as specified in paragraph (2) of subdivision
22 (f). The administrative law judge may extend the appointment of
23 the temporary manager an additional 60 days upon a showing by
24 the department that the conditions specified in subdivision (c)
25 continue to exist.

26 (3) The licensee or the department may request review of the
27 administrative law judge's decision on the extension as provided
28 in paragraph (4) of subdivision (f).

29 (i) The temporary manager appointed pursuant to this section
30 shall meet the following qualifications:

31 (1) Be qualified to oversee correction of deficiencies in a
32 residential care facility for the elderly on the basis of experience
33 and education.

34 (2) Not be the subject of any pending actions by the department
35 or any other state agency nor have ever been excluded from a
36 department-licensed facility or had a license or certification
37 suspended or revoked by an administrative action by the
38 department or any other state agency.

1 (3) Have no financial ownership interest in the facility and have
2 no member of his or her immediate family who has a financial
3 ownership interest in the facility.

4 (4) Not currently serve, or within the past two years have served,
5 as a member of the staff of the facility.

6 (j) Payment of the costs of the temporary manager shall comply
7 with the following requirements:

8 (1) Upon agreement with the licensee, the costs of the temporary
9 manager and any other expenses in connection with the temporary
10 management shall be paid directly by the facility while the
11 temporary manager is assigned to that facility. Failure of the
12 licensee to agree to the payment of those costs may result in the
13 payment of the costs by the department and subsequent required
14 reimbursement of the department by the licensee pursuant to this
15 section.

16 (2) Direct costs of the temporary manager shall be equivalent
17 to the sum of the following:

18 (A) The prevailing fee paid by licensees for positions of the
19 same type in the facility's geographic area.

20 (B) Additional costs that reasonably would have been incurred
21 by the licensee if the licensee and the temporary manager had been
22 in an employment relationship.

23 (C) Any other reasonable costs incurred by the temporary
24 manager in furnishing services pursuant to this section.

25 (3) Direct costs may exceed the amount specified in paragraph
26 (2) if the department is otherwise unable to find a qualified
27 temporary manager.

28 (k) (1) The responsibilities of the temporary manager may
29 include, but are not limited to, the following:

30 (A) Paying wages to staff. The temporary manager shall have
31 the full power to hire, direct, manage, and discharge employees
32 of the facility, subject to any contractual rights they may have.
33 The temporary manager shall pay employees at the same rate of
34 compensation, including benefits, that the employees would have
35 received from the licensee or wages necessary to provide adequate
36 staff for the protection of clients and compliance with the law.

37 (B) Preserving resident funds. The temporary manager shall be
38 entitled to, and shall take possession of, all property or assets of
39 residents that are in the possession of the licensee or administrator
40 of the facility. The temporary manager shall preserve all property,

1 assets, and records of residents of which the temporary manager
2 takes possession.

3 (C) Contracting for outside services as may be needed for the
4 operation of the facility. Any contract for outside services in excess
5 of five thousand dollars (\$5,000) shall be approved by the director.

6 (D) Paying commercial creditors of the facility to the extent
7 required to operate the facility. The temporary manager shall honor
8 all leases, mortgages, and secured transactions affecting the
9 building in which the facility is located and all goods and fixtures
10 in the building, but only to the extent of payments that, in the case
11 of a rental agreement, are for the use of the property during the
12 period of the temporary management, or that, in the case of a
13 purchase agreement, come due during the period of the temporary
14 management.

15 (E) Performing all acts that are necessary and proper to maintain
16 and operate the facility in accordance with sound fiscal policies.
17 The temporary manager shall take action as is reasonably necessary
18 to protect or conserve the assets or property of which the temporary
19 manager takes possession and may use those assets or property
20 only in the performance of the powers and duties set forth in this
21 section.

22 (2) Expenditures by the temporary manager in excess of five
23 thousand dollars (\$5,000) shall be approved by the director. Total
24 encumbrances and expenditures by the temporary manager for the
25 duration of the temporary management shall not exceed the sum
26 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
27 unless approved by the director in writing.

28 (3) The temporary manager shall not make capital improvements
29 to the facility in excess of five thousand dollars (\$5,000) without
30 the approval of the director.

31 (l) (1) To the extent department funds are advanced for the
32 costs of the temporary manager or for other expenses in connection
33 with the temporary management, the department shall be
34 reimbursed from the revenues accruing to the facility or to the
35 licensee or an entity related to the licensee. Any reimbursement
36 received by the department shall be redeposited in the account
37 from which the department funds were advanced. If the revenues
38 are insufficient to reimburse the department, the unreimbursed
39 amount shall constitute grounds for a monetary judgment in civil
40 court and a subsequent lien upon the assets of the facility or the

proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, “entity related to the licensee” means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who was obligated to disclose information under Section 1569.15 possesses an interest that would also require disclosure pursuant to Section 1569.15.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General’s office, the city attorney’s office, or the local district attorney’s office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency resident contingency account pursuant to Section 1569.48 when needed to supplement the operation of the facility or the transfer of residents under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (l), the licensee shall be required to reimburse the department for any funds used from the emergency resident contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential care facility for the elderly that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.

(r) A licensee shall not be liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee's conduct.

(s) The department may adopt regulations for the administration of this section.

~~SEC. 4.~~

SEC. 6. Section 1569.482 of the Health and Safety Code, as added by Section 25 of Chapter 29 of the Statutes of 2014, is amended to read:

1569.482. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of residential care facilities for the elderly and to minimize the effects of transfer trauma that accompany the abrupt transfer of residents through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a residential care facility for the elderly. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the residents' health and safety. The receivership is intended to protect the residents in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility

1 in order to bring it into compliance with law, facilitate a transfer
2 of ownership to a new licensee, or ensure the orderly transfer of
3 residents should the facility be required to close.

4 (b) (1) Whenever circumstances exist indicating that continued
5 management of a residential care facility by the current licensee
6 would present a substantial probability or imminent danger of
7 serious physical harm or death to the residents, or the facility is
8 closing or intends to terminate operation as a residential care
9 facility for the elderly and adequate arrangements for relocation
10 of residents have not been made at least 30 days prior to the closing
11 or termination, the director may petition the superior court for the
12 county in which the facility is located for an order appointing a
13 receiver to temporarily operate the facility in accordance with this
14 section.

15 (2) The petition shall allege the facts upon which the action is
16 based and shall be supported by an affidavit of the director. A copy
17 of the petition and affidavits, together with an order to appear and
18 show cause why temporary authority to operate the residential care
19 facility for the elderly should not be vested in a receiver pursuant
20 to this section, shall be delivered to the licensee, administrator, or
21 a responsible person at the facility to the attention of the licensee
22 and administrator. The order shall specify a hearing date, which
23 shall be not less than 10, nor more than 15, days following delivery
24 of the petition and order upon the licensee, except that the court
25 may shorten or lengthen the time upon a showing of just cause.

26 (c) (1) If the director files a petition pursuant to subdivision (b)
27 for appointment of a receiver to operate a residential care facility
28 for the elderly, in accordance with Section 564 of the Code of Civil
29 Procedure, the director may also petition the court, in accordance
30 with Section 527 of the Code of Civil Procedure, for an order
31 appointing a temporary receiver. A temporary receiver appointed
32 by the court pursuant to this subdivision shall serve until the court
33 has made a final determination on the petition for appointment of
34 a receiver filed pursuant to subdivision (b). A receiver appointed
35 pursuant to this subdivision shall have the same powers and duties
36 as a receiver would have if appointed pursuant to subdivision (b).
37 Upon the director filing a petition for a receiver, the receiver shall
38 complete its application for a provisional license to operate a
39 residential care facility for the elderly. For purposes of a
40 provisional license issued to a receiver, the licensee's existing fire

1 safety clearance shall serve as the fire safety clearance for the
2 receiver's provisional license.

3 (2) At the time of the hearing, the department shall advise the
4 licensee of the name of the proposed receiver. The receiver shall
5 be a certified residential care facility for the elderly administrator
6 or other responsible person or entity, as determined by the court,
7 from a list of qualified receivers established by the department,
8 and, if need be, with input from providers of residential care and
9 consumer representatives. Persons appearing on the list shall have
10 experience in the delivery of care services to clients of community
11 care facilities, and, if feasible, shall have experience with the
12 operation of a residential care facility for the elderly, shall not be
13 the subject of any pending actions by the department or any other
14 state agency, and shall not have ever been excluded from a
15 department licensed facility nor have had a license or certification
16 suspended or revoked by an administrative action by the
17 department or any other state agency. The receivers shall have
18 sufficient background and experience in management and finances
19 to ensure compliance with orders issued by the court. The owner,
20 licensee, or administrator shall not be appointed as the receiver
21 unless authorized by the court.

22 (3) If at the conclusion of the hearing, which may include oral
23 testimony and cross-examination at the option of any party, the
24 court determines that adequate grounds exist for the appointment
25 of a receiver and that there is no other reasonably available remedy
26 to protect the residents, the court may issue an order appointing a
27 receiver to temporarily operate the residential care facility for the
28 elderly and enjoining the licensee from interfering with the receiver
29 in the conduct of his or her duties. In these proceedings, the court
30 shall make written findings of fact and conclusions of law and
31 shall require an appropriate bond to be filed by the receiver and
32 paid for by the licensee. The bond shall be in an amount necessary
33 to protect the licensee in the event of any failure on the part of the
34 receiver to act in a reasonable manner. The bond requirement may
35 be waived by the licensee.

36 (4) The court may permit the licensee to participate in the
37 continued operation of the facility during the pendency of any
38 receivership ordered pursuant to this section and shall issue an
39 order detailing the nature and scope of participation.

1 (5) Failure of the licensee to appear at the hearing on the petition
2 shall constitute an admission of all factual allegations contained
3 in the petition for purposes of these proceedings only.

4 (6) The licensee shall receive notice and a copy of the
5 application each time the receiver applies to the court or the
6 department for instructions regarding his or her duties under this
7 section, when an accounting pursuant to subdivision (i) is
8 submitted, and when any other report otherwise required under
9 this section is submitted. The licensee shall have an opportunity
10 to present objections or otherwise participate in those proceedings.

11 (d) A person shall not impede the operation of a receivership
12 created under this section. The receiver's access to, or possession
13 of, the property shall not be interfered with during the term of the
14 receivership. There shall be an automatic stay for a 60-day period
15 subsequent to the appointment of a receiver of any action that
16 would interfere with the functioning of the facility, including, but
17 not limited to, cancellation of insurance policies executed by the
18 licensees, termination of utility services, attachments, or setoffs
19 of resident trust funds and working capital accounts and
20 repossession of equipment in the facility.

21 (e) When a receiver is appointed, the licensee may, at the
22 discretion of the court, be divested of possession and control of
23 the facility in favor of the receiver. If the court divests the licensee
24 of possession and control of the facility in favor of the receiver,
25 the department shall immediately issue a provisional license to the
26 receiver. Notwithstanding the applicable sections of this code
27 governing the revocation of a provisional license, the provisional
28 license issued to a receiver shall automatically expire upon the
29 termination of the receivership. The receiver shall possess the
30 provisional license solely for purposes of carrying out the
31 responsibilities authorized by this section and the duties ordered
32 by the court. The receiver shall have no right to appeal the
33 expiration of the provisional license.

34 (f) A receiver appointed pursuant to this section:

35 (1) May exercise those powers and shall perform those duties
36 ordered by the court, in addition to other duties provided by statute.

37 (2) Shall operate the facility in a manner that ensures the safety
38 and adequate care for the residents.

39 (3) Shall have the same rights to possession of the building in
40 which the facility is located, and of all goods and fixtures in the

1 building at the time the petition for receivership is filed, as the
2 licensee and administrator would have had if the receiver had not
3 been appointed.

4 (4) May use the funds, building, fixtures, furnishings, and any
5 accompanying consumable goods in the provision of care and
6 services to residents and to any other persons receiving services
7 from the facility at the time the petition for receivership was filed.

8 (5) Shall take title to all revenue coming to the facility in the
9 name of the receiver who shall use it for the following purposes
10 in descending order of priority:

11 (A) To pay wages to staff. The receiver shall have full power
12 to hire, direct, manage, and discharge employees of the facility,
13 subject to any contractual rights they may have. The receiver shall
14 pay employees at the same rate of compensation, including
15 benefits, that the employees would have received from the licensee
16 or wages necessary to provide adequate staff for the protection of
17 the clients and compliance with the law.

18 (B) To preserve resident funds. The receiver shall be entitled
19 to, and shall take, possession of all property or assets of residents
20 that are in the possession of the licensee or operator of the facility.
21 The receiver shall preserve all property, assets, and records of
22 residents of which the receiver takes possession.

23 (C) To contract for outside services as may be needed for the
24 operation of the residential care facility for the elderly. Any
25 contract for outside services in excess of five thousand dollars
26 (\$5,000) shall be approved by the court.

27 (D) To pay commercial creditors of the facility to the extent
28 required to operate the facility. Except as provided in subdivision
29 (h), the receiver shall honor all leases, mortgages, and secured
30 transactions affecting the building in which the facility is located
31 and all goods and fixtures in the building of which the receiver
32 has taken possession, but only to the extent of payments which,
33 in the case of a rental agreement, are for the use of the property
34 during the period of receivership, or which, in the case of a
35 purchase agreement, come due during the period of receivership.

36 (E) To receive a salary, as approved by the court.

37 (F) To do all things necessary and proper to maintain and operate
38 the facility in accordance with sound fiscal policies. The receiver
39 shall take action as is reasonably necessary to protect or conserve
40 the assets or property of which the receiver takes possession and

1 may use those assets or property only in the performance of the
2 powers and duties set out in this section and by order of the court.

3 (G) To ask the court for direction in the treatment of debts
4 incurred prior to the appointment, if the licensee's debts appear
5 extraordinary, of questionable validity, or unrelated to the normal
6 and expected maintenance and operation of the facility, or if
7 payment of the debts will interfere with the purposes of
8 receivership.

9 (g) (1) A person who is served with notice of an order of the
10 court appointing a receiver and of the receiver's name and address
11 shall be liable to pay the receiver, rather than the licensee, for any
12 goods or services provided by the residential care facility for the
13 elderly after the date of the order. The receiver shall give a receipt
14 for each payment and shall keep a copy of each receipt on file.
15 The receiver shall deposit amounts received in a special account
16 and shall use this account for all disbursements. Payment to the
17 receiver pursuant to this subdivision shall discharge the obligation
18 to the extent of the payment and shall not thereafter be the basis
19 of a claim by the licensee or any other person. A resident shall not
20 be evicted nor may any contract or rights be forfeited or impaired,
21 nor may any forfeiture be effected or liability increased, by reason
22 of an omission to pay the licensee, operator, or other person a sum
23 paid to the receiver pursuant to this subdivision.

24 (2) This section shall not be construed to suspend, during the
25 temporary management by the receiver, any obligation of the
26 licensee for payment of local, state, or federal taxes. A licensee
27 shall not be held liable for acts or omissions of the receiver during
28 the term of the temporary management.

29 (3) Upon petition of the receiver, the court may order immediate
30 payment to the receiver for past services that have been rendered
31 and billed, and the court may also order a sum not to exceed one
32 month's advance payment to the receiver of any sums that may
33 become payable under the Medi-Cal program.

34 (h) (1) A receiver shall not be required to honor a lease,
35 mortgage, or secured transaction entered into by the licensee of
36 the facility and another party if the court finds that the agreement
37 between the parties was entered into for a collusive, fraudulent
38 purpose or that the agreement is unrelated to the operation of the
39 facility.

1 (2) A lease, mortgage, or secured transaction or an agreement
2 unrelated to the operation of the facility that the receiver is
3 permitted to dishonor pursuant to this subdivision shall only be
4 subject to nonpayment by the receiver for the duration of the
5 receivership, and the dishonoring of the lease, mortgage, security
6 interest, or other agreement, to this extent, by the receiver shall
7 not relieve the owner or operator of the facility from any liability
8 for the full amount due under the lease, mortgage, security interest,
9 or other agreement.

10 (3) If the receiver is in possession of real estate or goods subject
11 to a lease, mortgage, or security interest that the receiver is
12 permitted to avoid pursuant to paragraph (1), and if the real estate
13 or goods are necessary for the continued operation of the facility,
14 the receiver may apply to the court to set a reasonable rent, price,
15 or rate of interest to be paid by the receiver during the duration of
16 the receivership. The court shall hold a hearing on this application
17 within 15 days. The receiver shall send notice of the application
18 to any known owner of the property involved at least 10 days prior
19 to the hearing.

20 (4) Payment by the receiver of the amount determined by the
21 court to be reasonable is a defense to any action against the receiver
22 for payment or possession of the goods or real estate, subject to
23 the lease or mortgage, which is brought by any person who received
24 the notice required by this subdivision. However, payment by the
25 receiver of the amount determined by the court to be reasonable
26 shall not relieve the owner or operator of the facility from any
27 liability for the difference between the amount paid by the receiver
28 and the amount due under the original lease, mortgage, or security
29 interest.

30 (i) A monthly accounting shall be made by the receiver to the
31 department of all moneys received and expended by the receiver
32 on or before the 15th day of the following month or as ordered by
33 the court, and the remainder of income over expenses for that
34 month shall be returned to the licensee. A copy of the accounting
35 shall be provided to the licensee. The licensee or owner of the
36 residential care facility for the elderly may petition the court for
37 a determination as to the reasonableness of any expenditure made
38 pursuant to paragraph (5) of subdivision (f).

39 (j) (1) The receiver shall be appointed for an initial period of
40 not more than three months. The initial three-month period may

1 be extended for additional periods not exceeding three months, as
2 determined by the court pursuant to this section. At the end of one
3 month, the receiver shall report to the court on its assessment of
4 the probability that the residential care facility for the elderly will
5 meet state standards for operation by the end of the initial
6 three-month period and will continue to maintain compliance with
7 those standards after termination of the receiver's management.
8 If it appears that the facility cannot be brought into compliance
9 with state standards within the initial three-month period, the court
10 shall take appropriate action as follows:

11 (A) Extend the receiver's management for an additional three
12 months if there is a substantial likelihood that the facility will meet
13 state standards within that period and will maintain compliance
14 with the standards after termination of the receiver's management.
15 The receiver shall report to the court in writing upon the facility's
16 progress at the end of six weeks of any extension ordered pursuant
17 to this paragraph.

18 (B) Order the director to revoke or temporarily suspend, or both,
19 the license pursuant to Section 1569.50 and extend the receiver's
20 management for the period necessary to transfer clients in
21 accordance with the transfer plan, but for not more than three
22 months from the date of initial appointment of a receiver, or 14
23 days, whichever is greater. An extension of an additional three
24 months may be granted if deemed necessary by the court.

25 (2) If it appears at the end of six weeks of an extension ordered
26 pursuant to subparagraph (A) of paragraph (1) that the facility
27 cannot be brought into compliance with state standards for
28 operation or that it will not maintain compliance with those
29 standards after the receiver's management is terminated, the court
30 shall take appropriate action as specified in subparagraph (B) of
31 paragraph (1).

32 (3) In evaluating the probability that a residential care facility
33 for the elderly will maintain compliance with state standards of
34 operation after the termination of receiver management ordered
35 by the court, the court shall consider at least the following factors:

36 (A) The duration, frequency, and severity of past violations in
37 the facility.

38 (B) History of compliance in other care facilities operated by
39 the proposed licensee.

40 (C) Efforts by the licensee to prevent and correct past violations.

1 (D) The financial ability of the licensee to operate in compliance
2 with state standards.

3 (E) The recommendations and reports of the receiver.

4 (4) Management of a residential care facility for the elderly
5 operated by a receiver pursuant to this section shall not be returned
6 to the licensee, to any person related to the licensee, or to any
7 person who served as a member of the facility's staff or who was
8 employed by the licensee prior to the appointment of the receiver
9 unless both of the following conditions are met:

10 (A) The department believes that it would be in the best interests
11 of the residents of the facility, requests that the court return the
12 operation of the facility to the former licensee, and provides clear
13 and convincing evidence to the court that it is in the best interests
14 of the facility's residents to take that action.

15 (B) The court finds that the licensee has fully cooperated with
16 the department in the appointment and ongoing activities of a
17 receiver appointed pursuant to this section, and, if applicable, any
18 temporary manager appointed pursuant to Section 1569.481.

19 (5) The owner of the facility may at any time sell, lease, or close
20 the facility, subject to the following provisions:

21 (A) If the owner closes the facility, or the sale or lease results
22 in the closure of the facility, the court shall determine if a transfer
23 plan is necessary. If the court so determines, the court shall adopt
24 and implement a transfer plan consistent with the provisions of
25 Section 1569.682.

26 (B) If the licensee proposes to sell or lease the facility and the
27 facility will continue to operate as a residential care facility for
28 the elderly, the court and the department shall reevaluate any
29 proposed transfer plan. If the court and the department determine
30 that the sale or lease of the facility will result in compliance with
31 licensing standards, the transfer plan and the receivership shall,
32 subject to those conditions that the court may impose and enforce,
33 be terminated upon the effective date of the sale or lease.

34 (k) (1) The salary of the receiver shall be set by the court
35 commensurate with community care facility industry standards,
36 giving due consideration to the difficulty of the duties undertaken,
37 and shall be paid from the revenue coming to the facility. If the
38 revenue is insufficient to pay the salary in addition to other
39 expenses of operating the facility, the receiver's salary shall be
40 paid from the emergency resident contingency account as provided

1 in Section 1569.48. State advances of funds in excess of five
2 thousand dollars (\$5,000) shall be approved by the director. Total
3 advances for encumbrances and expenditures shall not exceed the
4 sum of forty-nine thousand nine hundred ninety-nine dollars
5 (\$49,999) unless approved by the director in writing.

6 (2) To the extent state funds are advanced for the salary of the
7 receiver or for other expenses in connection with the receivership,
8 as limited by subdivision (g), the state shall be reimbursed from
9 the revenues accruing to the facility or to the licensee or an entity
10 related to the licensee. Any reimbursement received by the state
11 shall be redeposited in the account from which the state funds were
12 advanced. If the revenues are insufficient to reimburse the state,
13 the unreimbursed amount shall constitute grounds for a monetary
14 judgment in civil court and a subsequent lien upon the assets of
15 the facility or the proceeds from the sale thereof. Pursuant to
16 Chapter 2 (commencing with Section 697.510) of Division 2 of
17 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
18 personal assets of the facility or an entity related to the licensee
19 based on the monetary judgment obtained shall be filed with the
20 Secretary of State on the forms required for a notice of judgment
21 lien. A lien against the real property of the facility or an entity
22 related to the licensee based on the monetary judgment obtained
23 shall be recorded with the county recorder of the county where the
24 facility of the licensee is located or where the real property of the
25 entity related to the licensee is located. The lien shall not attach
26 to the interests of a lessor, unless the lessor is operating the facility.
27 The authority to place a lien against the personal and real property
28 of the licensee for the reimbursement of any state funds expended
29 pursuant to this section shall be given judgment creditor priority.

30 (3) For purposes of this subdivision, "entity related to the
31 licensee" means an entity, other than a natural person, of which
32 the licensee is a subsidiary or an entity in which any person who
33 was obligated to disclose information under Section 1569.15
34 possesses an interest that would also require disclosure pursuant
35 to Section 1569.15.

36 (l) (1) This section does not impair the right of the owner of a
37 residential care facility for the elderly to dispose of his or her
38 property interests in the facility, but any facility operated by a
39 receiver pursuant to this section shall remain subject to that
40 administration until terminated by the court. The termination shall

1 be promptly effectuated, provided that the interests of the residents
2 have been safeguarded as determined by the court.

3 (2) This section does not limit the power of the court to appoint
4 a receiver under any other applicable provision of law or to order
5 any other remedy available under law.

6 (m) (1) Notwithstanding any other provision of law, the receiver
7 shall be liable only for damages resulting from gross negligence
8 in the operation of the facility or intentional tortious acts.

9 (2) All governmental immunities otherwise applicable to the
10 State of California shall also apply in the use of a receiver in the
11 operation ~~if~~ of a facility pursuant to this section.

12 (3) The licensee shall not be liable for any occurrences during
13 the receivership except to the extent that the occurrences are the
14 result of the licensee's conduct.

15 (n) The department may adopt regulations for the administration
16 of this section. This section does not impair the authority of the
17 department to temporarily suspend licenses under Section 1569.50
18 or to reach a voluntary agreement with the licensee for alternate
19 management of a community care facility including the use of a
20 temporary manager under Section 1569.481. This section does not
21 authorize the department to interfere in a labor dispute.

22 (o) This section does not apply to a residential care facility for
23 the elderly that serves six or fewer persons and is also the principal
24 residence of the licensee.

25 (p) This section does not apply to a licensee that has obtained
26 a certificate of authority to offer continuing care contracts, as
27 defined in paragraph (8) of subdivision (c) of Section 1771.

28 ~~SEC. 5.~~

29 *SEC. 7.* Section 1569.682 of the Health and Safety Code is
30 amended to read:

31 1569.682. (a) A licensee of a licensed residential care facility
32 for the elderly shall, prior to transferring a resident of the facility
33 to another facility or to an independent living arrangement as a
34 result of the forfeiture of a license, as described in subdivision (a),
35 (b), or (f) of Section 1569.19, or a change of use of the facility
36 pursuant to the department's regulations, take all reasonable steps
37 to transfer affected residents safely and to minimize possible
38 transfer trauma, and shall, at a minimum, do all of the following:

39 (1) Prepare, for each resident, a relocation evaluation of the
40 needs of that resident, which shall include both of the following:

1 (A) Recommendations on the type of facility that would meet
2 the needs of the resident based on the current service plan.

3 (B) A list of facilities, within a 60-mile radius of the resident's
4 current facility, that meet the resident's present needs.

5 (2) Provide each resident or the resident's responsible person
6 with a written notice no later than 60 days before the intended
7 eviction. The notice shall include all of the following:

8 (A) The reason for the eviction, with specific facts to permit a
9 determination of the date, place, witnesses, and circumstances
10 concerning the reasons.

11 (B) A copy of the resident's current service plan.

12 (C) The relocation evaluation.

13 (D) A list of referral agencies.

14 (E) The right of the resident or resident's legal representative
15 to contact the department to investigate the reasons given for the
16 eviction pursuant to Section 1569.35.

17 (F) The contact information for the local long-term care
18 ombudsman, including address and telephone number.

19 (3) Discuss the relocation evaluation with the resident and his
20 or her legal representative within 30 days of issuing the notice of
21 eviction.

22 (4) Submit a written report of any eviction to the licensing
23 agency within five days.

24 (5) Upon issuing the written notice of eviction, a licensee shall
25 not accept new residents or enter into new admission agreements.

26 (6) (A) For paid preadmission fees in excess of five hundred
27 dollars (\$500), the resident is entitled to a refund in accordance
28 with all of the following:

29 (i) A 100-percent refund if preadmission fees were paid within
30 six months of notice of eviction.

31 (ii) A 75-percent refund if preadmission fees were paid more
32 than six months but not more than 12 months before notice of
33 eviction.

34 (iii) A 50-percent refund if preadmission fees were paid more
35 than 12 months but not more than 18 months before notice of
36 eviction.

37 (iv) A 25-percent refund if preadmission fees were paid more
38 than 18 months but less than 25 months before notice of eviction.

39 (B) No preadmission refund is required if preadmission fees
40 were paid 25 months or more before the notice of eviction.

1 (C) The preadmission refund required by this paragraph shall
2 be paid within 15 days of issuing the eviction notice. In lieu of the
3 refund, the resident may request that the licensee provide a credit
4 toward the resident's monthly fee obligation in an amount equal
5 to the preadmission fee refund due.

6 (7) If the resident gives notice five days before leaving the
7 facility, the licensee shall refund to the resident or his or her legal
8 representative a proportional per diem amount of any prepaid
9 monthly fees at the time the resident leaves the facility and the
10 unit is vacated. Otherwise the licensee shall pay the refund within
11 seven days from the date that the resident leaves the facility and
12 the unit is vacated.

13 (8) Within 10 days of all residents having left the facility, the
14 licensee, based on information provided by the resident or
15 resident's legal representative, shall submit a final list of names
16 and new locations of all residents to the department and the local
17 ombudsman program.

18 (b) If seven or more residents of a residential care facility for
19 the elderly will be transferred as a result of the forfeiture of a
20 license or change in the use of the facility pursuant to subdivision
21 (a), the licensee shall submit a proposed closure plan to the
22 department for approval. The department shall approve or
23 disapprove the closure plan, and monitor its implementation, in
24 accordance with the following requirements:

25 (1) Upon submission of the closure plan, the licensee shall be
26 prohibited from accepting new residents and entering into new
27 admission agreements for new residents.

28 (2) The closure plan shall meet the requirements described in
29 subdivision (a), and describe the staff available to assist in the
30 transfers. The department's review shall include a determination
31 as to whether the licensee's closure plan contains a relocation
32 evaluation for each resident.

33 (3) Within 15 working days of receipt, the department shall
34 approve or disapprove the closure plan prepared pursuant to this
35 subdivision, and, if the department approves the plan, it shall
36 become effective upon the date the department grants its written
37 approval of the plan.

38 (4) If the department disapproves a closure plan, the licensee
39 may resubmit an amended plan, which the department shall
40 promptly either approve or disapprove, within 10 working days

1 of receipt by the department of the amended plan. If the department
2 fails to approve a closure plan, it shall inform the licensee, in
3 writing, of the reasons for the disapproval of the plan.

4 (5) If the department fails to take action within 20 working days
5 of receipt of either the original or the amended closure plan, the
6 plan, or amended plan, as the case may be, shall be deemed
7 approved.

8 (6) Until such time that the department has approved a licensee's
9 closure plan, the facility shall not issue a notice of transfer or
10 require any resident to transfer.

11 (7) Upon approval by the department, the licensee shall send a
12 copy of the closure plan to the local ombudsman program.

13 (c) (1) If a licensee fails to comply with the requirements of
14 this section, or if the director determines that it is necessary to
15 protect the residents of a facility from physical or mental abuse,
16 abandonment, or any other substantial threat to health or safety,
17 the department shall take any necessary action to minimize trauma
18 for the residents, including caring for the residents through the use
19 of a temporary manager or receiver as provided for in Sections
20 1569.481 and 1569.482 when the director determines the immediate
21 relocation of the residents is not feasible based on transfer trauma
22 or other considerations such as the unavailability of alternative
23 placements. The department shall contact any local agency that
24 may have assessment placement, protective, or advocacy
25 responsibility for the residents, and shall work together with those
26 agencies to locate alternative placement sites, contact relatives or
27 other persons responsible for the care of these residents, provide
28 onsite evaluation of the residents, and assist in the transfer of
29 residents.

30 (2) The participation of the department and local agencies in
31 the relocation of residents from a residential care facility for the
32 elderly shall not relieve the licensee of any responsibility under
33 this section. A licensee that fails to comply with the requirements
34 of this section shall be required to reimburse the department and
35 local agencies for the cost of providing the relocation services or
36 the costs incurred in caring for the residents through the use of a
37 temporary manager or receiver as provided for in Sections
38 1569.481 and 1569.482. If the licensee fails to provide the
39 relocation services required in this section, then the department
40 may request that the Attorney General's office, the city attorney's

1 office, or the local district attorney's office seek injunctive relief
2 and damages in the same manner as provided for in Chapter 5
3 (commencing with Section 17200) of Part 2 of Division 7 of the
4 Business and Professions Code, including restitution to the
5 department of any costs incurred in caring for the residents through
6 the use of a temporary manager or receiver as provided for in
7 Sections 1569.481 and 1569.482.

8 (d) A licensee who fails to comply with requirements of this
9 section shall be liable for the imposition of civil penalties in the
10 amount of one hundred dollars (\$100) per violation per day for
11 each day that the licensee is in violation of this section, until such
12 time that the violation has been corrected. The civil penalties shall
13 be issued immediately following the written notice of violation.
14 However, if the violation does not present an immediate or
15 substantial threat to the health or safety of residents and the licensee
16 corrects the violation within three days after receiving the notice
17 of violation, the licensee shall not be liable for payment of any
18 civil penalties pursuant to this subdivision related to the corrected
19 violation.

20 (e) A resident of a residential care facility for the elderly covered
21 under this ~~section~~, *section* may bring a civil action against any
22 person, firm, partnership, or corporation who owns, operates,
23 establishes, manages, conducts, or maintains a residential care
24 facility for the elderly who violates the rights of a resident, as set
25 forth in this section. Any person, firm, partnership, or corporation
26 who owns, operates, establishes, manages, conducts, or maintains
27 a residential care facility for the elderly who violates this section
28 shall be responsible for the acts of the facility's employees and
29 shall be liable for costs and attorney's fees. Any such residential
30 care facility for the elderly may also be enjoined from permitting
31 the violation to continue. The remedies specified in this section
32 shall be in addition to any other remedy provided by law.

33 (f) This section shall not apply to a licensee that has obtained
34 a certificate of authority to offer continuing care contracts, as
35 defined in paragraph (8) of subdivision (c) of Section 1771.

36 *SEC. 7.5. Section 1569.682 of the Health and Safety Code is*
37 *amended to read:*

38 1569.682. (a) A licensee of a licensed residential care facility
39 for the elderly shall, prior to transferring a resident of the facility
40 to another facility or to an independent living arrangement as a

1 result of the forfeiture of a license, as described in subdivision (a),
2 (b), or (f) of Section 1569.19, or a change of use of the facility
3 pursuant to the department's regulations, take all reasonable steps
4 to transfer affected residents safely and to minimize possible
5 transfer trauma, and shall, at a minimum, do all of the following:

6 (1) Prepare, for each resident, a relocation evaluation of the
7 needs of that resident, which shall include both of the following:

8 (A) Recommendations on the type of facility that would meet
9 the needs of the resident based on the current service plan.

10 (B) A list of facilities, within a 60-mile radius of the resident's
11 current facility, that meet the resident's present needs.

12 (2) Provide each resident or the resident's responsible person
13 with a written notice no later than 60 days before the intended
14 eviction. The notice shall include all of the following:

15 (A) The reason for the eviction, with specific facts to permit a
16 determination of the date, place, witnesses, and circumstances
17 concerning the reasons.

18 (B) A copy of the resident's current service plan.

19 (C) The relocation evaluation.

20 (D) A list of referral agencies.

21 (E) The right of the resident or resident's legal representative
22 to contact the department to investigate the reasons given for the
23 eviction pursuant to Section 1569.35.

24 (F) The contact information for the local long-term care
25 ombudsman, including address and telephone number.

26 (3) Discuss the relocation evaluation with the resident and his
27 or her legal representative within 30 days of issuing the notice of
28 eviction.

29 (4) Submit a written report of any eviction to the licensing
30 agency within five days.

31 (5) Upon issuing the written notice of eviction, a licensee shall
32 not accept new residents or enter into new admission agreements.

33 (6) (A) For paid preadmission fees in excess of five hundred
34 dollars (\$500), the resident is entitled to a refund in accordance
35 with all of the following:

36 (i) A 100-percent refund if preadmission fees were paid within
37 six months of notice of eviction.

38 (ii) A 75-percent refund if preadmission fees were paid more
39 than six months but not more than 12 months before notice of
40 eviction.

1 (iii) A 50-percent refund if preadmission fees were paid more
2 than 12 months but not more than 18 months before notice of
3 eviction.

4 (iv) A 25-percent refund if preadmission fees were paid more
5 than 18 months but less than 25 months before notice of eviction.

6 (B) No preadmission refund is required if preadmission fees
7 were paid 25 months or more before the notice of eviction.

8 (C) The preadmission refund required by this paragraph shall
9 be paid within 15 days of issuing the eviction notice. In lieu of the
10 refund, the resident may request that the licensee provide a credit
11 toward the resident's monthly fee obligation in an amount equal
12 to the preadmission fee refund due.

13 (7) If the resident gives notice five days before leaving the
14 facility, the licensee shall refund to the resident or his or her legal
15 representative a proportional per diem amount of any prepaid
16 monthly fees at the time the resident leaves the facility and the
17 unit is vacated. Otherwise the licensee shall pay the refund within
18 seven days from the date that the resident leaves the facility and
19 the unit is vacated.

20 (8) Within 10 days of all residents having left the facility, the
21 licensee, based on information provided by the resident or
22 resident's legal representative, shall submit a final list of names
23 and new locations of all residents to the department and the local
24 ombudsman program.

25 (b) If seven or more residents of a residential care facility for
26 the elderly will be transferred as a result of the forfeiture of a
27 license or change in the use of the facility pursuant to subdivision
28 (a), the licensee shall submit a proposed closure plan to the
29 department for approval. The department shall approve or
30 disapprove the closure plan, and monitor its implementation, in
31 accordance with the following requirements:

32 (1) Upon submission of the closure plan, the licensee shall be
33 prohibited from accepting new residents and entering into new
34 admission agreements for new residents.

35 (2) The closure plan shall meet the requirements described in
36 subdivision (a), and describe the staff available to assist in the
37 transfers. The department's review shall include a determination
38 as to whether the licensee's closure plan contains a relocation
39 evaluation for each resident.

1 (3) Within 15 working days of receipt, the department shall
2 approve or disapprove the closure plan prepared pursuant to this
3 subdivision, and, if the department approves the plan, it shall
4 become effective upon the date the department grants its written
5 approval of the plan.

6 (4) If the department disapproves a closure plan, the licensee
7 may resubmit an amended plan, which the department shall
8 promptly either approve or disapprove, within 10 working days
9 of receipt by the department of the amended plan. If the department
10 fails to approve a closure plan, it shall inform the licensee, in
11 writing, of the reasons for the disapproval of the plan.

12 (5) If the department fails to take action within 20 working days
13 of receipt of either the original or the amended closure plan, the
14 plan, or amended plan, as the case may be, shall be deemed
15 approved.

16 (6) Until such time that the department has approved a licensee's
17 closure plan, the facility shall not issue a notice of transfer or
18 require any resident to transfer.

19 (7) Upon approval by the department, the licensee shall send a
20 copy of the closure plan to the local ombudsman program.

21 (c) (1) If a licensee fails to comply with the requirements of
22 this section, ~~and~~ or if the director determines that it is necessary
23 to protect the residents of a facility from physical or mental abuse,
24 abandonment, or any other substantial threat to health or safety,
25 the department shall take any necessary action to minimize trauma
26 for the residents, including caring for the residents through the use
27 of a temporary manager *or receiver* as provided for in ~~Section~~
28 ~~1569.481~~ *Sections 1569.481 and 1569.482* when the director
29 determines the immediate relocation of the residents is not feasible
30 based on transfer trauma or other considerations such as the
31 unavailability of alternative placements. The department shall
32 contact any local agency that may have assessment placement,
33 protective, or advocacy responsibility for the residents, and shall
34 work together with those agencies to locate alternative placement
35 sites, contact relatives or other persons responsible for the care of
36 these residents, provide onsite evaluation of the residents, and
37 assist in the transfer of residents.

38 (2) The participation of the department and local agencies in
39 the relocation of residents from a residential care facility for the
40 elderly shall not relieve the licensee of any responsibility under

1 this section. A licensee that fails to comply with the requirements
 2 of this section shall be required to reimburse the department and
 3 local agencies for the cost of providing the relocation services or
 4 the costs incurred in caring for the residents through the use of a
 5 temporary manager *or receiver* as provided for in ~~Section~~
 6 ~~1569.481. Sections 1569.481 and 1569.482.~~ If the licensee fails
 7 to provide the relocation services required in this section, then the
 8 department may request that the Attorney General's office, the
 9 city attorney's office, or the local district attorney's office seek
 10 injunctive relief and damages in the same manner as provided for
 11 in Chapter 5 (commencing with Section 17200) of Part 2 of
 12 Division 7 of the Business and Professions Code, including
 13 restitution to the department of any costs incurred in caring for the
 14 residents through the use of a temporary manager *or receiver* as
 15 provided for in ~~Section 1569.481. Sections 1569.481 and 1569.482.~~

16 (d) A licensee who fails to comply with requirements of this
 17 section shall be liable for the imposition of civil penalties in the
 18 amount of one hundred dollars (\$100) per violation per day for
 19 each day that the licensee is in violation of this section, until such
 20 time that the violation has been corrected. The civil penalties shall
 21 be issued immediately following the written notice of violation.
 22 However, if the violation does not present an immediate or
 23 substantial threat to the health or safety of residents and the licensee
 24 corrects the violation within three days after receiving the notice
 25 of violation, the licensee shall not be liable for payment of any
 26 civil penalties pursuant to this subdivision related to the corrected
 27 violation.

28 (e) *A licensee, on and after January 1, 2015, who fails to comply*
 29 *with this section and abandons the facility and the residents in*
 30 *care resulting in an immediate and substantial threat to the health*
 31 *and safety of the abandoned residents, in addition to forfeiture of*
 32 *the license pursuant to Section 1569.19, shall be excluded from*
 33 *licensure in facilities licensed by the department without the right*
 34 *to petition for reinstatement.*

35 (e)

36 (f) A resident of a residential care facility for the elderly covered
 37 under this ~~section~~, *section* may bring a civil action against any
 38 person, firm, partnership, or corporation who owns, operates,
 39 establishes, manages, conducts, or maintains a residential care
 40 facility for the elderly who violates the rights of a resident, as set

1 forth in this section. Any person, firm, partnership, or corporation
2 who owns, operates, establishes, manages, conducts, or maintains
3 a residential care facility for the elderly who violates this section
4 shall be responsible for the acts of the facility's employees and
5 shall be liable for costs and attorney's fees. Any such residential
6 care facility for the elderly may also be enjoined from permitting
7 the violation to continue. The remedies specified in this section
8 shall be in addition to any other remedy provided by law.

9 (f)

10 (g) This section shall not apply to a licensee that has obtained
11 a certificate of authority to offer continuing care contracts, as
12 defined in paragraph (8) of subdivision (c) of Section 1771.

13 ~~SEC. 6.~~

14 *SEC. 8.* Section 11461.3 of the Welfare and Institutions Code,
15 as added by Section 74 of Chapter 29 of the Statutes of 2014, is
16 amended to read:

17 11461.3. (a) The Approved Relative Caregiver Funding Option
18 Program is hereby established for the purpose of making the
19 amount paid to approved relative caregivers for the in-home care
20 of children placed with them who are ineligible for AFDC-FC
21 payments equal to the amount paid on behalf of children who are
22 eligible for AFDC-FC payments. This is an optional program for
23 counties choosing to participate, and in so doing, participating
24 counties agree to the terms of this section as a condition of their
25 participation. It is the intent of the Legislature that the funding
26 described in paragraph (1) of subdivision (e) for the Approved
27 Relative Caregiver Funding Option Program be appropriated, and
28 available for use from January through December of each year,
29 unless otherwise specified.

30 (b) Subject to subdivision (c), effective January 1, 2015, counties
31 shall pay an approved relative caregiver a per child per month rate
32 in return for the care and supervision, as defined in subdivision
33 (b) of Section 11460, of a child that is placed with the relative
34 caregiver that is equal to the basic rate paid to foster care providers
35 pursuant to subdivision (g) of Section 11461, if both of the
36 following conditions are met:

37 (1) The county with payment responsibility has notified the
38 department in writing by October 1 of the year before participation
39 begins of its decision to participate in the Approved Relative
40 Caregiver Funding Option Program.

1 (2) The related child placed in the home meets all of the
2 following requirements:

3 (A) The child resides in the State of California.

4 (B) The child is described by subdivision (b), (c), or (e) of
5 Section 11401 and the county welfare department or the county
6 probation department is responsible for the placement and care of
7 the child.

8 (C) The child is not eligible for AFDC-FC while placed with
9 the approved relative caregiver because the child is not eligible
10 for federal financial participation in the AFDC-FC payment.

11 (c) A county's election to participate in the Approved Relative
12 Caregiver Funding Option Program shall affirmatively indicate
13 that the county understands and agrees to all of the following
14 conditions:

15 (1) Commencing October 1, 2014, the county shall notify the
16 department in writing of its decision to participate in the Approved
17 Relative Caregiver Funding Option Program. Failure to make
18 timely notification, without good cause as determined by the
19 department, shall preclude the county from participating in the
20 program for the upcoming year. Annually thereafter, any county
21 not presently participating who elects to do so shall notify the
22 department in writing no later than October 1 of its decision to
23 participate for the upcoming calendar year.

24 (2) The county shall confirm that it will make per child per
25 month payments to all approved relative caregivers on behalf of
26 eligible children in the amount specified in subdivision (b) for the
27 duration of the participation of the county in this program.

28 (3) The county shall confirm that it will be solely responsible
29 to pay any additional costs needed to make all payments pursuant
30 to subdivision (b) if the state and federal funds allocated to the
31 Approved Relative Caregiver Funding Option Program pursuant
32 to paragraph (1) of subdivision (e) are insufficient to make all
33 eligible payments.

34 (d) (1) A county deciding to opt out of the Approved Relative
35 Caregiver Funding Option Program shall provide at least 120 days'
36 prior written notice of that decision to the department. Additionally,
37 the county shall provide at least 90 days' prior written notice to
38 the approved relative caregiver or caregivers informing them that
39 his or her per child per month payment will be reduced and the
40 date that the reduction will occur.

(2) The department shall presume all counties have opted out of the Approved Relative Caregiver Funding Option Program if the funding appropriated in subclause (II) of clause (i) of subparagraph (B) of paragraph (1) of subdivision (e), including any additional funds appropriated pursuant to clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e), is reduced, unless a county notifies the department in writing of its intent to opt in within 60 days of enactment of the state budget. The counties shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

(3) Any reduction in payments received by an approved relative caregiver on behalf of a child under this section that results from a decision by a county, including the presumed opt-out pursuant to paragraph (2), to not participate in the Approved Relative Caregiver Funding Option Program shall be exempt from state hearing jurisdiction under Section 10950.

(e) (1) The following funding shall be used for the Approved Relative Caregiver Funding Option Program:

(A) The applicable regional per-child CalWORKs grant.

(B) (i) General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code. For this purpose, the following money is hereby appropriated:

(I) The sum of thirty million dollars (\$30,000,000) from the General Fund for the period January 1, 2015 through December 31, 2015.

(II) The sum of thirty million dollars (\$30,000,000) from the General Fund in each calendar year thereafter, as cumulatively adjusted annually by the California Necessities Index used for each May Revision of the Governor's Budget, to be used in each respective calendar year.

(ii) To the extent that the appropriation made in subclause (I) is insufficient to fully fund the base caseload of approved relative caregivers as of July 1, 2014, for the period of time described in subclause (I), as jointly determined by the department and the County Welfare Directors' Association and approved by the Department of Finance on or before October 1, 2015, the amounts specified in subclauses (I) and (II) shall be increased in the

1 respective amounts necessary to fully fund that base caseload.
2 Thereafter, the adjusted amount of subclause (II), and the other
3 terms of that provision, including an annual California Necessities
4 Index adjustment to its amount, shall apply.

5 (C) County funds only to the extent required under paragraph
6 (3) of subdivision (c).

7 (D) This section is intended to appropriate the funding necessary
8 to fully fund the base caseload of approved relative caregivers,
9 defined as the number of approved relative caregivers caring for
10 a child who is not eligible to receive AFDC-FC payments, as of
11 July 1, 2014.

12 (2) Funds available pursuant to subparagraphs (A) and (B) of
13 paragraph (1) shall be allocated to participating counties
14 proportionate to the number of their approved relative caregiver
15 placements, using a methodology and timing developed by the
16 department, following consultation with county human services
17 agencies and their representatives.

18 (3) Notwithstanding subdivision (c), if in any calendar year the
19 entire amount of funding appropriated by the state for the Approved
20 Relative Caregiver Funding Option Program has not been fully
21 allocated to or utilized by counties, a county that has paid any
22 funds pursuant to subparagraph (C) of paragraph (1) of subdivision
23 (e) may request reimbursement for those funds from the
24 department. The authority of the department to approve the requests
25 shall be limited by the amount of available unallocated funds.

26 (f) An approved relative caregiver receiving payments on behalf
27 of a child pursuant to this section shall not be eligible to receive
28 additional CalWORKs payments on behalf of the same child under
29 Section 11450.

30 (g) To the extent permitted by federal law, payments received
31 by the approved relative caregiver from the Approved Relative
32 Caregiver Funding Option Program shall not be considered income
33 for the purpose of determining other public benefits.

34 (h) Prior to referral of any individual or recipient, or that
35 person's case, to the local child support agency for child support
36 services pursuant to Section 17415 of the Family Code, the county
37 human services agency shall determine if an applicant or recipient
38 has good cause for noncooperation, as set forth in Section
39 11477.04. If the applicant or recipient claims good cause exception
40 at any subsequent time to the county human services agency or

1 the local child support agency, the local child support agency shall
2 suspend child support services until the county social services
3 agency determines the good cause claim, as set forth in Section
4 11477.04. If good cause is determined to exist, the local child
5 support agency shall suspend child support services until the
6 applicant or recipient requests their resumption, and shall take
7 other measures that are necessary to protect the applicant or
8 recipient and the children. If the applicant or recipient is the parent
9 of the child for whom aid is sought and the parent is found to have
10 not cooperated without good cause as provided in Section
11 11477.04, the applicant's or recipient's family grant shall be
12 reduced by 25 percent for the time the failure to cooperate lasts.

13 (i) Consistent with Section 17552 of the Family Code, if aid is
14 paid under this chapter on behalf of a child who is under the
15 jurisdiction of the juvenile court and whose parent or guardian is
16 receiving reunification services, the county human services agency
17 shall determine, prior to referral of the case to the local child
18 support agency for child support services, whether the referral is
19 in the best interest of the child, taking into account both of the
20 following:

21 (1) Whether the payment of support by the parent will pose a
22 barrier to the proposed reunification in that the payment of support
23 will compromise the parent's ability to meet the requirements of
24 the parent's reunification plan.

25 (2) Whether the payment of support by the parent will pose a
26 barrier to the proposed reunification in that the payment of support
27 will compromise the parent's current or future ability to meet the
28 financial needs of the child.

29 ~~SEC. 7.~~

30 *SEC. 9.* Section 11462.04 of the Welfare and Institutions Code
31 is amended to read:

32 11462.04. (a) Notwithstanding any other law, no new group
33 home rate or change to an existing rate shall be established pursuant
34 to Section 11462. An application shall not be accepted or processed
35 for any of the following:

- 36 (1) A new program.
37 (2) A new provider.
38 (3) A program change, such as a rate classification level (RCL)
39 increase.
40 (4) A program capacity increase.

1 (5) A program reinstatement.

2 (b) Notwithstanding subdivision (a), the department may grant
3 exceptions as appropriate on a case-by-case basis, based upon a
4 written request and supporting documentation provided by county
5 placing agencies, including county welfare or probation directors.

6 (c) For the 2012–13, 2013–14, and 2014–15 fiscal years,
7 notwithstanding subdivision (b), for any program below RCL 10,
8 the only exception that may be sought and granted pursuant to this
9 section is for an application requesting a program change, such as
10 an RCL increase. The authority to grant other exceptions does not
11 apply to programs below RCL 10 during these fiscal years.

12 ~~SEC. 8.~~

13 *SEC. 10.* Section 11477 of the Welfare and Institutions Code,
14 as amended by Section 75 of Chapter 29 of the Statutes of 2014,
15 is amended to read:

16 11477. As a condition of eligibility for aid paid under this
17 chapter, each applicant or recipient shall do all of the following:

18 (a) (1) Do either of the following:

19 (i) For applications received before October 1, 2009, assign to
20 the county any rights to support from any other person the applicant
21 or recipient may have on his or her own behalf or on behalf of any
22 other family member for whom the applicant or recipient is
23 applying for or receiving aid, not exceeding the total amount of
24 cash assistance provided to the family under this chapter. Receipt
25 of public assistance under this chapter shall operate as an
26 assignment by operation of law. An assignment of support rights
27 to the county shall also constitute an assignment to the state. If
28 support rights are assigned pursuant to this subdivision, the
29 assignee may become an assignee of record by the local child
30 support agency or other public official filing with the court clerk
31 an affidavit showing that an assignment has been made or that
32 there has been an assignment by operation of law. This procedure
33 does not limit any other means by which the assignee may become
34 an assignee of record.

35 (ii) For applications received on or after October 1, 2009, assign
36 to the county any rights to support from any other person the
37 applicant or recipient may have on his or her own behalf, or on
38 behalf of any other family member for whom the applicant or
39 recipient is applying for or receiving aid. The assignment shall
40 apply only to support that accrues during the period of time that

1 the applicant is receiving assistance under this chapter, and shall
2 not exceed the total amount of cash assistance provided to the
3 family under this chapter. Receipt of public assistance under this
4 chapter shall operate as an assignment by operation of law. An
5 assignment of support rights to the county shall also constitute an
6 assignment to the state. If support rights are assigned pursuant to
7 this subdivision, the assignee may become an assignee of record
8 by the local child support agency or other public official filing
9 with the court clerk an affidavit showing that an assignment has
10 been made or that there has been an assignment by operation of
11 law. This procedure does not limit any other means by which the
12 assignee may become an assignee of record.

13 (2) Support that has been assigned pursuant to paragraph (1)
14 and that accrues while the family is receiving aid under this chapter
15 shall be permanently assigned until the entire amount of aid paid
16 has been reimbursed.

17 (3) If the federal government does not permit states to adopt the
18 same order of distribution for preassistance and postassistance
19 child support arrears that are assigned on or after October 1, 1998,
20 support arrears that accrue before the family receives aid under
21 this chapter that are assigned pursuant to this subdivision shall be
22 assigned as follows:

23 (A) Child support assigned prior to January 1, 1998, shall be
24 permanently assigned until aid is no longer received and the entire
25 amount of aid has been reimbursed.

26 (B) Child support assigned on or after January 1, 1998, but prior
27 to October 1, 2000, shall be temporarily assigned until aid under
28 this chapter is no longer received and the entire amount of aid paid
29 has been reimbursed or until October 1, 2000, whichever comes
30 first.

31 (C) On or after October 1, 2000, support assigned pursuant to
32 this subdivision that was not otherwise permanently assigned shall
33 be temporarily assigned to the county until aid is no longer
34 received.

35 (D) On or after October 1, 2000, support that was temporarily
36 assigned pursuant to this subdivision shall, when a payment is
37 received from the federal tax intercept program, be temporarily
38 assigned until the entire amount of aid paid has been reimbursed.

1 (4) If the federal government permits states to adopt the same
2 order of distribution for preassistance and postassistance child
3 support arrears, child support arrears shall be assigned, as follows:

4 (A) Child support assigned pursuant to this subdivision prior
5 to October 1, 1998, shall be assigned until aid under this chapter
6 is no longer received and the entire amount has been reimbursed.

7 (B) On or after October 1, 1998, child support assigned pursuant
8 to this subdivision that accrued before the family receives aid under
9 this chapter and that was not otherwise permanently assigned, shall
10 be temporarily assigned until aid under this chapter is no longer
11 received.

12 (C) On or after October 1, 1998, support that was temporarily
13 assigned pursuant to this subdivision shall, when a payment is
14 received from the federal tax intercept program, be temporarily
15 assigned until the entire amount of aid paid has been reimbursed.

16 (b) (1) Cooperate with the county welfare department and local
17 child support agency in establishing the paternity of a child of the
18 applicant or recipient born out of wedlock with respect to whom
19 aid is claimed, and in establishing, modifying, or enforcing a
20 support order with respect to a child of the individual for whom
21 aid is requested or obtained, unless the applicant or recipient
22 qualifies for a good cause exception pursuant to Section 11477.04.
23 The granting of aid shall not be delayed or denied if the applicant
24 is otherwise eligible, if the applicant completes the necessary forms
25 and agrees to cooperate with the local child support agency in
26 securing support and determining paternity, if applicable. The local
27 child support agency shall have staff available, in person or by
28 telephone, at all county welfare offices and shall conduct an
29 interview with each applicant to obtain information necessary to
30 establish paternity and establish, modify, or enforce a support order
31 at the time of the initial interview with the welfare office. The local
32 child support agency shall make the determination of cooperation.
33 If the applicant or recipient attests under penalty of perjury that
34 he or she cannot provide the information required by this
35 subdivision, the local child support agency shall make a finding
36 regarding whether the individual could reasonably be expected to
37 provide the information before the local child support agency
38 determines whether the individual is cooperating. In making the
39 finding, the local child support agency shall consider all of the
40 following:

1 (A) The age of the child for whom support is sought.

2 (B) The circumstances surrounding the conception of the child.

3 (C) The age or mental capacity of the parent or caretaker of the
4 child for whom aid is being sought.

5 (D) The time that has elapsed since the parent or caretaker last
6 had contact with the alleged father or obligor.

7 (2) Cooperation includes all of the following:

8 (A) Providing the name of the alleged parent or obligor and
9 other information about that person if known to the applicant or
10 recipient, such as address, social security number, telephone
11 number, place of employment or school, and the names and
12 addresses of relatives or associates.

13 (B) Appearing at interviews, hearings, and legal proceedings
14 provided the applicant or recipient is provided with reasonable
15 advance notice of the interview, hearing, or legal proceeding and
16 does not have good cause not to appear.

17 (C) If paternity is at issue, submitting to genetic tests, including
18 genetic testing of the child, if necessary.

19 (D) Providing any additional information known to or reasonably
20 obtainable by the applicant or recipient necessary to establish
21 paternity or to establish, modify, or enforce a child support order.

22 (3) A recipient or applicant shall not be required to sign a
23 voluntary declaration of paternity, as set forth in Chapter 3
24 (commencing with Section 7570) of Part 2 of Division 12 of the
25 Family Code, as a condition of cooperation.

26 (c) (1) This section shall not apply if all of the adults are
27 excluded from the assistance unit pursuant to Section 11251.3,
28 11454, or 11486.5.

29 (2) It is the intent of the Legislature that the regular receipt of
30 child support in the preceding reporting period be considered in
31 determining reasonably anticipated income for the following
32 reporting period.

33 (3) In accordance with Sections 11265.2 and 11265.46, if the
34 income of an assistance unit described in paragraph (1) includes
35 reasonably anticipated income derived from child support, the first
36 ~~fifty dollars (\$50)~~ *amount established in Section 17504 of the*
37 *Family Code and Section 11475.3 of this code* of any amount of
38 child support received each month shall not be considered income
39 or resources and shall not be deducted from the amount of aid to
40 which the assistance unit otherwise would be eligible.

1 ~~SEC. 9.~~

2 *SEC. 11.* Section 12300.4 of the Welfare and Institutions Code,
3 as added by Section 76 of Chapter 29 of the Statutes of 2014, is
4 amended to read:

5 12300.4. (a) Notwithstanding any other law, including, but
6 not limited to, Chapter 10 (commencing with Section 3500) of
7 Division 4 of Title 1 of the Government Code and Title 23
8 (commencing with Section 110000) of the Government Code, a
9 recipient who is authorized to receive in-home supportive services
10 pursuant to this article, or Section 14132.95, 14132.952, or
11 14132.956, administered by the State Department of Social
12 Services, or waiver personal care services pursuant to Section
13 14132.97, administered by the State Department of Health Care
14 Services, or any combination of these services, shall direct these
15 authorized services, and the authorized services shall be performed
16 by a provider or providers within a workweek and in a manner
17 that complies with the requirements of this section.

18 (b) (1) A workweek is defined as beginning at 12:00 a.m. on
19 Sunday and includes the next consecutive 168 hours, terminating
20 at 11:59 p.m. the following Saturday.

21 (2) A provider of services specified in subdivision (a) shall not
22 work a total number of hours within a workweek that exceeds 66,
23 as reduced by the net percentage defined by Sections 12301.02
24 and 12301.03, as applicable, and in accordance with subdivision
25 (d). The total number of hours worked within a workweek by a
26 provider is defined as the sum of the following:

27 (A) All hours worked providing authorized services specified
28 in subdivision (a).

29 (B) Travel time as defined in subdivision (f), only if federal
30 financial participation is not available to compensate for that travel
31 time. If federal financial participation is available for travel time
32 as defined in subdivision (f), the travel time shall not be included
33 in the calculation of the total weekly hours worked within a
34 workweek.

35 (3) (A) If the authorized in-home supportive services of a
36 recipient cannot be provided by a single provider as a result of the
37 limitation specified in paragraph (2), it is the responsibility of the
38 recipient to employ an additional provider or providers, as needed,
39 to ensure his or her authorized services are provided within his or

her total weekly authorized hours of services established pursuant to subdivision (b) of Section 12301.1.

(B) If the provider of authorized waiver personal care services cannot provide those services to a recipient as a result of the limitation specified in paragraph (2), the State Department of Health Care Services shall work with the recipient to engage additional providers, as necessary. It is the intent of the Legislature that this section shall not result in reduced services authorized to recipients of waiver personal care services defined in subdivision (a).

(4) (A) A provider shall inform each of his or her recipients of the number of hours that the provider is available to work for that recipient, in accordance with this section.

(B) A recipient, his or her authorized representative, or any other entity, including any person or entity providing services pursuant to Section 14186.35, shall not authorize any provider to work hours that exceed the applicable limitation or limitations of this section.

(C) A recipient may authorize a provider to work hours in excess of the recipient's weekly authorized hours established pursuant to Section 12301.1 without notification of the county welfare department, in accordance with both of the following:

(i) The authorization does not result in more than 40 hours of authorized services per week being provided.

(ii) The authorization does not exceed the recipient's authorized hours of monthly services pursuant to paragraph (1) of subdivision (b) of Section 12301.1.

(5) For providers of in-home supportive services, the State Department of Social Services or a county may terminate the provider from providing services under the IHSS program if a provider continues to violate the limitations of this section on multiple occasions.

(c) Notwithstanding any other law, only federal law and regulations regarding overtime compensation apply to providers of services defined in subdivision (a).

(d) A provider of services defined in subdivision (a) is subject to all of the following, as applicable to his or her situation:

(1) (A) A provider who works for one individual recipient of those services shall not work a total number of hours within a workweek that exceeds 66 hours, as reduced by the net percentage

defined by Sections 12301.02 and 12301.03, as applicable. In no circumstance shall the provision of these services by that provider to the individual recipient exceed the total weekly hours of the services authorized to that recipient, except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b). If multiple providers serve the same recipient, it shall continue to be the responsibility of that recipient or his or her authorized representative to schedule the work of his or her providers to ensure the authorized services of the recipient are provided in accordance with this section.

(B) When a recipient's weekly authorized hours are adjusted pursuant to subparagraph (C) of paragraph (1) of subdivision (b) of Section 12301.1 and exceed 66 hours, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, and at the time of adjustment the recipient currently receives all authorized hours of service from one provider, that provider shall be deemed authorized to work the recipient's county-approved adjusted hours for that week, but only if the additional hours of work, based on the adjustment, do not exceed the total number of hours worked that are compensable at an overtime pay rate that the provider would have been authorized to work in that month if the weekly hours had not been adjusted.

(2) A provider of in-home supportive services described in subdivision (a) who serves multiple recipients is not authorized to, and shall not, work more than 66 total hours in a workweek, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, regardless of the number of recipients for whom the provider provides services authorized by subdivision (a). Providers are subject to the limits of each recipient's total authorized weekly hours of in-home supportive services described in subdivision (a), except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b).

(e) Recipients and providers shall be informed of the limitations and requirements contained in this section, through notices at intervals and on forms as determined by the State Department of Social Services or the State Department of Health Care Services, as applicable, following consultation with stakeholders.

(f) (1) A provider of services described in subdivision (a) shall not engage in travel time in excess of seven hours per week. For the purposes of this subdivision, "travel time" means time spent

1 traveling directly from a location where authorized services
2 specified in subdivision (a) are provided to one recipient, to another
3 location where authorized services are to be provided to another
4 recipient. A provider shall coordinate hours of work with his or
5 her recipients to comply with this section.

6 (2) The hourly wage to compensate a provider for travel time
7 described in this subdivision when the travel is between two
8 counties shall be the hourly wage of the destination county.

9 (3) Travel time, and compensation for that travel time, between
10 a recipient of authorized in-home supportive services specified in
11 subdivision (a) and a recipient of authorized waiver personal care
12 services specified in subdivision (a), shall be attributed to the
13 program authorizing services for the recipient to whom the provider
14 is traveling.

15 (4) Hours spent by a provider while engaged in travel time shall
16 not be deducted from the authorized hours of service of any
17 recipient of services specified in subdivision (a).

18 (5) The State Department of Social Services and the State
19 Department of Health Care Services shall issue guidance and
20 processes for travel time between recipients that will assist the
21 provider and recipient to comply with this subdivision. Each county
22 shall provide technical assistance to providers and recipients, as
23 necessary, to implement this subdivision.

24 (g) A provider of authorized in-home supportive services
25 specified in subdivision (a) shall timely submit, deliver, or mail,
26 verified by postmark or request for delivery, a signed payroll
27 timesheet within two weeks after the end of each bimonthly payroll
28 period. Notwithstanding any other law, a provider who submits
29 an untimely payroll timesheet for providing authorized in-home
30 supportive services specified in subdivision (a) shall be paid by
31 the state within 30 days of the receipt of the signed payroll
32 timesheet.

33 (h) This section does not apply to a contract entered into
34 pursuant to Section 12302 or 12302.6 for authorized in-home
35 supportive services. Contract rates negotiated pursuant to Section
36 12302 or 12302.6 shall be based on costs consistent with a 40-hour
37 workweek.

38 (i) The state and counties are immune from any liability resulting
39 from implementation of this section.

(j) Any action authorized under this section that is implemented in a program authorized pursuant to Section 14132.95, 14132.97, 14132.952, or 14132.956 shall be compliant with federal Medicaid requirements, as determined by the State Department of Health Care Services.

(k) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Health Care Services may implement, interpret, or make specific this section by means of all-county letters or similar instructions, without taking any regulatory action.

(l) (1) This section shall become operative only when the regulatory amendments made by RIN 1235-AA05 to Part 552 of Title 29 of the Code of Federal Regulations are deemed effective, either on the date specified in RIN 1235-AA05 or at a later date specified by the Federal Department of Labor, whichever is later.

(2) If the regulatory amendments described in paragraph (1) become only partially effective by the date specified in paragraph (1), this section shall become operative only for those persons for whom federal financial participation is available as of that date.

SEC. 12. The Legislature finds and declares that the number of unaccompanied, undocumented minors in California has surged in recent months, often overwhelming the agencies and organizations that care for these minors and help to determine their immigration status. Legal representation for unaccompanied undocumented minors in California is important to assist these minors in navigating through federal immigration proceedings as well as related state court actions.

SEC. 13. Chapter 5.6 (commencing with Section 13300) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

*CHAPTER 5.6. LEGAL COUNSEL FOR UNACCOMPANIED
UNDOCUMENTED MINORS*

13300. (a) Subject to the availability of funding in the act that added this chapter or the annual Budget Act, the department shall contract, as described in Section 13301, with qualified nonprofit legal services organizations to provide legal services to

1 *unaccompanied undocumented minors who are transferred to the*
2 *care and custody of the federal Office of Refugee Resettlement and*
3 *who are present in this state.*

4 *(b) Legal services provided in accordance with subdivision (a)*
5 *shall be for the sole purpose of providing legal representation to*
6 *unaccompanied undocumented minors who are in the physical*
7 *custody of the federal Office of Refugee Resettlement or who are*
8 *residing with a family member or other sponsor.*

9 *(c) For purposes of this chapter, the term “unaccompanied*
10 *undocumented minors” means unaccompanied alien children as*
11 *defined in Section 279(g)(2) of Title 6 of the United States Code.*

12 *(d) For purposes of this chapter, the term “legal services”*
13 *includes culturally and linguistically appropriate services provided*
14 *by attorneys, paralegals, interpreters and other support staff for*
15 *state court proceedings, federal immigration proceedings, and*
16 *any appeals arising from those proceedings.*

17 *13301. Contracts awarded pursuant to Section 13300 shall*
18 *fulfill all of the following:*

19 *(a) Be executed only with nonprofit legal services organizations*
20 *that meet all of the following requirements:*

21 *(1) Have at least three years of experience handling asylum,*
22 *T-Visa, U-Visa, or special immigrant juvenile status cases and*
23 *have represented at least 25 individuals in these matters.*

24 *(2) Have experience in representing individuals in removal*
25 *proceedings and asylum applications.*

26 *(3) Have conducted trainings on these issues for practitioners*
27 *beyond their staff.*

28 *(4) Have experience guiding and supervising the work of*
29 *attorneys whom themselves do not regularly participate in this*
30 *area of the law but nevertheless work pro bono on the types of*
31 *cases described in paragraph (1).*

32 *(5) Are accredited by the Board of Immigration Appeals under*
33 *the United States Department of Justice’s Executive Office for*
34 *Immigration Review or meet the requirements to receive funding*
35 *from the Trust Fund Program administered by the State Bar of*
36 *California.*

37 *(b) Provide for legal services to unaccompanied undocumented*
38 *minors on a fee-per-case basis, as determined by the department,*
39 *which shall include all administrative and supervisory costs and*
40 *court fees.*

1 (c) *Require reporting, monitoring, or audits of services provided,*
2 *as determined by the department.*

3 (d) *Require contractors to coordinate efforts with the federal*
4 *Office of Refugee Resettlement Legal Access Project in order to*
5 *respond to and assist or represent unaccompanied undocumented*
6 *minors who could benefit from the services provided under this*
7 *chapter.*

8 (e) *Require contractors to maintain adequate legal malpractice*
9 *insurance and to indemnify and hold the state harmless from any*
10 *claims that arise from the legal services provided pursuant to this*
11 *chapter.*

12 13302. *Notwithstanding any other law:*

13 (a) *Contracts awarded pursuant to this chapter shall be exempt*
14 *from the personal services contracting requirements of Article 4*
15 *(commencing with Section 19130) of Chapter 5 of Part 2 of*
16 *Division 5 of Title 2 of the Government Code.*

17 (b) *Contracts awarded pursuant to this chapter shall be exempt*
18 *from the Public Contract Code and the State Contracting Manual,*
19 *and shall not be subject to the approval of the Department of*
20 *General Services.*

21 (c) *The client information and records of legal services provided*
22 *pursuant to this chapter shall be subject to the requirements of*
23 *Section 10850 and shall be exempt from inspection under the*
24 *California Public Records Act (Chapter 3.5 (commencing with*
25 *Section 6250) of Division 7 of Part 1 of the Government Code).*

26 (d) *The state shall be immune from any liability resulting from*
27 *the implementation of this chapter.*

28 ~~SEC. 10.~~

29 SEC. 14. Section 88 of Chapter 29 of the Statutes of 2014 is
30 amended to read:

31 SEC. 88. (a) Notwithstanding the rulemaking provisions of
32 the Administrative Procedure Act (Chapter 3.5 (commencing with
33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
34 Code), the department may implement and administer the changes
35 made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,
36 81, 82, and 83 of Chapter 29 of the Statutes of 2014 through
37 all-county letters or similar instructions until regulations are
38 adopted.

39 (b) The department shall adopt emergency regulations
40 implementing these provisions no later than January 1, 2016. The

1 department may readopt any emergency regulation authorized by
2 this section that is the same as, or substantially equivalent to, any
3 emergency regulation previously adopted pursuant to this section.
4 The initial adoption of regulations pursuant to this section and one
5 readoption of emergency regulations shall be deemed to be an
6 emergency and necessary for the immediate preservation of the
7 public peace, health, safety, or general welfare. Initial emergency
8 regulations and the one readoption of emergency regulations
9 authorized by this section shall be exempt from review by the
10 Office of Administrative Law. The initial emergency regulations
11 and the one readoption of emergency regulations authorized by
12 this section shall be submitted to the Office of Administrative Law
13 for filing with the Secretary of State and each shall remain in effect
14 for no more than 180 days, by which time final regulations shall
15 be adopted.

16 *SEC. 15. The provisions of this act are severable. If any*
17 *provision of this act or its application is held invalid, that invalidity*
18 *shall not affect other provisions or applications that can be given*
19 *effect without the invalid provision or application.*

20 *SEC. 16. The Legislature finds and declares that Section 1 of*
21 *this act, which adds Chapter 7 (commencing with Section 155) to*
22 *Part 1 of Title 1 to the Code of Civil Procedure, imposes a*
23 *limitation on the public's right of access to the meetings of public*
24 *bodies or the writings of public officials and agencies within the*
25 *meaning of Section 3 of Article I of the California Constitution.*
26 *Pursuant to that constitutional provision, the Legislature makes*
27 *the following findings to demonstrate the interest protected by this*
28 *limitation and the need for protecting that interest:*

29 *In order to protect the privacy interests of those minors who are*
30 *seeking special immigrant juvenile status, it is essential to maintain*
31 *the confidentiality of the records described in Section 1 of this act.*

32 *SEC. 17. Section 7.5 of this bill incorporates amendments to*
33 *Section 1569.682 of the Health and Safety Code proposed by both*
34 *this bill and Assembly Bill 1899. It shall only become operative if*
35 *(1) both bills are enacted and become effective on or before*
36 *January 1, 2015, but this bill becomes operative first, (2) each bill*
37 *amends Section 1569.682 of the Health and Safety Code, and (3)*
38 *this bill is enacted after Assembly Bill 1899, in which case Section*
39 *1569.682 of the Health and Safety Code, as amended by Section*
40 *7 of this bill, shall remain operative only until the operative date*

1 *of Assembly Bill 1899, at which time Section 7.5 of this bill shall*
2 *become operative.*

3 ~~SEC. 11.~~

4 *SEC. 18.* The amount of one million six hundred eighty-six
5 thousand dollars (\$1,686,000) is hereby appropriated to the State
6 Department of Social Services in augmentation of Item
7 5180-151-0001 of Section 2.00 of the Budget Act of 2014, for
8 Program 25.30 for the Commercially Sexually Exploited Children
9 Program, and *the* total—the amount appropriated in Item
10 5180-153-0001 of Section 2.00 of the Budget Act of 2014 is hereby
11 reduced by the amount of one million six hundred eighty-six
12 thousand dollars (\$1,686,000) to offset that appropriation.

13 ~~SEC. 12.~~

14 *SEC. 19.* No appropriation pursuant to Section 15200 of the
15 Welfare and Institutions Code is made for purposes of this act.

16 ~~SEC. 13.~~

17 *SEC. 20.* This act is a bill providing for appropriations related
18 to the Budget Bill within the meaning of subdivision (e) of Section
19 12 of Article IV of the California Constitution, has been identified
20 as related to the budget in the Budget Bill, and shall take effect
21 immediately.